

The Gazette



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No. 16] NEW DELHI, SATURDAY, APRIL 17, 1954

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 10th April 1954:—

Issue No.	No. and Date	Issued by	Subject
80	S. R. O. 1111, dated the 5th April 1954.	Ministry of Commerce and Industry.	Draft amendments to the Tea Rules, 1954
81	S. R. O. 1112, dated the 17th March 1954.	Election Commission, India.	Election Petition No. 271 of 1952.
82	S. R. O. 1113, dated the 5th April 1954.	Delimitation Commission, India.	Final Order No. 10 in respect of the distribution of seats to, and the delimitation of, Assembly constituencies in the State of Ajmer.
83	S. R. O. 1114, dated the 7th April 1954.	Election Commission, India.	Amendment made in the Notification No. 100/1/7/53 (2), dated the 8th March, 1954.
	S. R. O. 1115, dated the 7th April 1954.	Do.	Final list of candidates for election to the House of the People from Fazilka-Sirsa Constituency.
84	S. R. O. 1116, dated the 2nd April 1954.	Do.	Election Petition No. 10 of 1952.
85	S. R. O. 1117, dated the 2nd April 1954.	Do.	Election Petition No. 11 of 1952.
86	S. R. O. 1118, dated the 23rd March 1954.	Do.	Election Petition No. 244 of 1952.
87	S. R. O. 1119, dated the 17th March 1954.	Do.	Election Petition No. 282 of 1952.
88	S. R. O. 1210, dated the 10th April 1954.	Ministry of Finance (Revenue Division)	Amendment made in the Central Excise Rules, 1944.

Issue No	No and date	Issued by	Subject
89	S. R. O. 1212, dated the 10th April 1954	Ministry of Law	Fixation of the hours during which the poll shall be taken in the Bhandara Parliamentary constituency in the State of Madhya Pradesh.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF HOME AFFAIRS

New Delhi, the 8th April 1954

S.R.O. 1217.—In exercise of the powers conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government is pleased to exempt the body guard accompanying Shri Bhadra Kali Misra, Minister for Works, Government of Nepal during his tour to Nepal Terai through the State of Bihar, from the operation of the prohibitions and directions contained in the said Act, in respect of one .45 bore revolver No. 10382 and 8 (eight) rounds of ammunition.

[No. 9/12/54-Police (I).]

N. SAHGAL, Dy. Secy.

New Delhi, the 9th April 1954

S.R.O. 1218.—In exercise of the powers conferred by section 12 of the Commissions of Inquiry Act, 1952 (LX of 1952), the Central Government hereby makes the following rules, namely:—

1. **Short title.**—These Rules may be called the Commissions of Inquiry (Assessors) Rules, 1954.

2. **Definition.**—In these Rules, “assessor” means an assessor appointed under these Rules.

3. **Appointment of assessors.**—The Central Government or with the previous approval of the Central Government a Commission, may, from time to time, appoint one or more assessors to assist and advise the Commission on any matter connected with its inquiry.

4. **Functions of assessors.**—It shall be the duty of the assessors to assist and advise the Commission on any matter on which the Commission may consult them in the course of its inquiry:

Provided that advice tendered by the assessors shall not be binding on the Commission.

5. **Manner of consultation with assessors.**—The Commission shall have the power to regulate the manner in which it may consult the assessors.

[No. 16/4/54-Judl.]

M. GOPAL MENON, Dy. Secy.

New Delhi, the 10th April 1954

S.R.O. 1219.—In exercise of the powers conferred by section 3 of the Indian Passport Act, 1920, (XXXIV of 1920), the Central Government hereby directs that the following further amendments shall be made in the Indian Passport Rules 1950, namely:—

In sub-rule (i) of rule 4 of the said Rules—

(i) for clause (c), the following clauses shall be substituted, namely:—

“(c) Persons domiciled in India proceeding from the Portuguese Establishments in India;

“(cc) Persons domiciled in India, proceeding from any of the French Establishments in India other than those proceeding from Pondicherry and Karaikal on or after the 19th April, 1954.”

(iii) for clause (d), the following clauses shall be substituted, namely:—

“(d) Persons domiciled in any French Establishment in India proceeding from any such establishment other than those proceeding from Pondicherry and Karaikal on or after the 19th April, 1954;

“(dd) Persons domiciled in any Portuguese establishment in India other than persons in the Service of the Government of any such establishment or the member of the family of any such person proceeding from any such establishment on or after the 1st April 1954.”

[No. 6/87/52-F.I.]

FATEH SINGH, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 6th April 1954

S.R.O. 1220.—In pursuance of sub-section (3) and (5) of section 11 of the Port Haj Committees Act, 1932 (XX of 1932), the election at a meeting of the Port Haj Committee held on the 16th March 1954 of Shri Ramzanali P. Ibrahim as Chairman of the Port Haj Committee, Bombay is hereby approved and notified.

[No. 198-AWT.]

A. J. KIDWAI, Dy. Secy.

CENTRAL BOARD OF REVENUE

CUSTOMS

New Delhi, the 5th April 1954

S.R.O. 1221.—In pursuance of sub-section (1) of section 9 of the Land Customs Act, 1924 (XIX of 1924), read with section 182 of the Sea Customs Act, 1878 (VIII of 1878), the Central Board of Revenue prescribes and limits the powers of the Deputy Superintendent of Central Excise, Vapi-Challa Custom House, within his jurisdiction as shown below:—

He shall exercise the powers indicated in clause (c) of section 182 of the Sea Customs Act.

[No. 37.]

W. SALDANHA, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 12th April 1954

S.R.O. 1222.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notifications of the Government of India in the late Ministry of Industry and Supply, No. I(1)-4(41), dated the 7th September, 1950, No. I(1)-1(530)-D, dated the 26th May, 1949, No. I(1)-1(699)/48-B, dated the 16th

August, 1948, and No. I(1)-(106), dated the 8th March, 1948 as amended from time to time, namely:—

In the Schedule annexed to each of the said notifications for the entries—

“District Supplies Officer, District Kangra, Dharamsala.

The District Food and Civil Supplies Controller, Government of Punjab

(I), Simla.”
the entries—

“Food Supply Officer, Hoshiarpur,

Food Supply Officer, Kangra.

Food Supply Officer, Simla.”

shall be substituted.

[No. SC(A)-4(216)/54]

S.R.O. 1223.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to direct that the following amendment shall be made in the Notifications of the Government of India in the late Ministry of Industry and Supply No. I(1)-4(78)-A, dated the 6th January, 1951, and No. I(1)-4(78)-C, dated the 6th January, 1951, as amended from time to time, namely:—

In the Schedule annexed to each of the said notifications for the entries—

“District Supplies Officer, District Kangra, Dharamsala.

The District Food and Civil Supplies Controller, Government of Punjab
(I) Simla.”

the entries—

“Food Supply Officer, Hoshiarpur.

Food Supply Officer, Kangra.

Food Supply Officer, Simla.”

shall be substituted.

[No. SC(A)-4(216)/54-A]

S.R.O. 1224.—In exercise of the powers conferred by sub-clause (a) of Clause 2 of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Commerce and Industry, No. SC(A)-4(32), dated the 30th October, 1952, as amended from time to time, namely:—

For “(4) District Food and Civil Supplies Controller, Simla.

(5) District Supplies Officer, Kangra at Dharamsala.”,

occurring in the above said Notification the following shall be substituted—

“(4) Food Supply Officer, Hoshiarpur.

(5) Food Supply Officer, Kangra.

(6) Food Supply Officer, Simla.”

[No. SC(A)-4(216)/54-B]

S.R.O. 1225.—In exercise of the powers conferred by sub-clause (b) of Clause 2 of the Iron and Steel (Scrap Control) Order, 1943, the Central Government is pleased to direct that the following amendment shall be made in the Notification of the Government of India in the Ministry of Commerce and Industry, No. SC(A)-4(32)-A, dated the 30th October, 1952, as amended from time to time, namely:—

For “(4) District Food and Civil Supplies Controller, Simla.

(5) District Supplies Officer, Kangra at Dharamsala.”,

occurring in the above said Notification the following shall be substituted—

“(4) Food Supply Officer, Hoshiarpur.

(5) Food Supply Officer, Kangra.

(6) Food Supply Officer, Simla.”

[No. SC(A)-4(216)/54-C]

D. HEJMADI, Under Secy.

New Delhi, the 12th April 1954

S.R.O. 1226.—In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946) the Central Government hereby directs that the following further amendment shall be made in the Cotton Textiles (Control) Order, 1948, namely;

In the said order, the following proviso shall be added to sub-clause (1) of clause 13, namely;—

“Provided that nothing in this sub-clause shall apply where any such cloth is manufactured under the written authority of the Textile Commissioner for the purpose of export outside India.”

[No. 9(4)-CT(A)/54-4]

S.R.O. 1227.—The Central Government hereby notifies the nomination of Shri P. C. Agarwal by the Government of Madhya Bharat as a member of the Central Silk Board under clause (g) of sub-section (3) of section 4 of the Central Silk Board Act, 1948.

2. This Ministry's Notification S.R.O. No. 390, dated the 20th January, 1954 is hereby cancelled.

[No. 23(54)-CTB/53.]

S.R.O. 1228.—In exercise of the powers conferred by clause (j) of sub-section (3) of section 4 of the Central Silk Board Act, 1948, the Central Government hereby nominates Sarvashree K. C. Biswas and T. L. Gangoji Rao as members of the Central Silk Board to represent the Silk Trade and Silk Industry respectively.

The Central Government hereby also notifies the election of the following persons as members of the Central Silk Board in pursuance of clause (c) of sub-section (3) of section 4 of the Central Silk Board Act, 1948, namely:—

(a) Elected by the members of the House of the People from among themselves:—

Shri N. Rachiah, M.P.

(b) Elected by the members of the Council of States from among themselves:—

Shri Jagannath Das, M.P.

2. This Ministry's Notification S.R.O. No. 199 dated the 16th January, 1954 is hereby cancelled.

[No. 23(54)-CTB/53]

S. A. TECKCHANDANI, Under Secy.

New Delhi, the 12th April 1954

S.R.O. 1229.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (Act No. LXI of 1948) and in supersession of this Ministry's Notification No. S.R.O. 1413 dated the 12th August 1952 the Central Government hereby appoints the Textile Commissioner to the Government of India as Chairman of the Central Silk Board.

2. This Ministry's Notification S.R.O. No. 2221 dated the 1st December, 1953 is hereby cancelled.

[No. 23(54)-CTB/53]

B. K. KOCHAR, Dy. Secy.

MINISTRY OF HEALTH

New Delhi, the 29th March 1954

S.R.O. 1230.—The following draft of a further amendment in the Drugs Rules, 1945, which it is proposed to make after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by Sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said Sections, for the information of persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration after the 17th July, 1954.

2. Any objection or suggestion which may be received from any person, with respect to the said draft, before the date specified, will be considered by the Central Government.

Draft Amendment

For Part VIII of Schedule F, to the said Rules, the following shall be substituted, namely:—

“PART VIII.—INJECTION OF ADRENALINE.

Proper name.—Injection of Adrenaline (Epinephrine) is a sterile solution of adrenaline in water for injection containing in each 100 mills, 0.08 gm. tartaric acid, 0.08 gm. Sodium Chloride and not less than 0.09 gm. and not more than 0.110 gm. $C^9H^{13}O^3N$.

Standard preparation.—The standard preparation is a quantity of pure 1-adrenaline, which satisfies all the tests for purity specified in the International Pharmacopoeia. The specific rotation of a 4 per cent. w/v solution of standard adrenaline in N/1 hydrochloric acid, should be between -50 and -53 degree when the angular rotation is observed in the D line of the sodium spectrum at 25 degree C.

Test for Potency.—A suitable solution of adrenaline injected intravenously into a cat or a dog by the methods described below produces a rise in the systolic blood-pressure of the animal corresponding to that produced by an equal amount of a solution of standard chemically pure adrenaline.

(i) *Preparation of the solution for the test.*—The following method is suggested:—

Weigh accurately about 0.050 gm. of standard adrenaline, dissolve it in 5 cc. of N/1 hydrochloric acid and dilute this to 50 cc. by the addition of distilled water, thus making a 1 in 1,000 solution. This solution must be recently prepared, otherwise it deteriorates. It will keep for a short time if preserved in hard glass containers in a refrigerator, but it must be discarded if any signs of deterioration, such as colouration, are observed.

Suitable dilutions of the standard adrenaline solution may then be made in physiological saline for comparison with equivalent dilutions of injection of adrenaline to be tested.

(ii) *Methods of comparison of Potency.*—The following methods of assay are suggested:—

(a) For the purpose the assay a full grown cat, preferably male, should be used. The cat should be anaesthetised with a suitable anaesthetic, the spinal cord should be divided and the brain destroyed, the respiration being maintained artificially. The blood-pressure is estimated by inserting a cannula into the carotid artery and connecting the same with a mercury manometer which records on a moving drum. The injections are made into the exposed femoral vein. The blood-pressure must be low and must not vary before experiments are started.

Determine the amount of standard solution necessary to cause a sub-maximal rise in blood-pressure by injecting intravenously varying doses of the solution at regular intervals and after a satisfactory dose has been ascertained, the

uniformity of reactions should be tested by the injection of two or more doses of equal size. If those injections produce approximately equal increases in blood-pressure, alternate injections of the solution to be tested and of the standard are made varying the amount of the unknown until two or more successive injections raise the blood-pressure to the same height, indicating that the amount of active agent is the same in the doses used. From the result thus obtained the strength of the unknown solution may be determined and adjusted.

(b) For the purpose of the assay, a dog of medium size should be used. The animal should be anaesthetised with a suitable anaesthetic and maintained under artificial respiration. It is prepared for blood-pressure estimations by inserting a cannula into the carotid artery and connecting the same with a mercury manometer which records on a moving drum. The injections are made into the exposed femoral vein. Before the test is made, in case any muscular movement such as twitching is present, the dog should receive by intravenous injections a sufficient dose of curare, but if the animal is deeply anaesthetised, this is not necessary. The dog should also receive a sufficient dose of atropine sulphate (from 0.001 gm. to 0.002 gm. per kg. of the dog's weight) to paralyse the vagi, this paralysis being proved by electrical stimulation. Injections must be made at regular intervals of approximately 5 minutes.

Determine the amount of standard solution necessary to cause a rise in blood-pressure from 30 to 60 mm. of the mercury by injecting intravenously varying dose of the solution and after a satisfactory dose has been ascertained, the uniformity of reaction should be tested by the injection of two or more doses of equal size. If these injections produce approximately equal increases in blood-pressure, alternate injections of the solution to be tested and of the standard are made varying the amount of the unknown until two or more successive injections raise the blood-pressure to the same height indicating that the amount of active agent is the same in the doses used. From the results thus obtained, the strength of the unknown solution may be determined and adjusted.

Containers.—(1) Ampoules shall be made of resistance glass passing the B.P. tests for limits of alkalinity of glass. Containers other than ampoules shall be made of amber coloured resistance glass passing the B.P. test of alkalinity of glass.

(2) The drug shall be put up only in single-dose containers.

Storage.—Injection of adrenaline shall be kept in ampoules, protected from light. If the solution becomes brown in colour or contains a precipitate, it must be rejected. A suitable preservative may be added to the solution.

Labelling.—The label of the container shall contain the following in addition to any other particulars prescribed in these rules:—

1. Strength of the solution.
2. The word 'sterile' or the words "suitable for parenteral injection".
3. Dose (0.12 to 0.5 ml. by injection).
4. Date of manufacture and date of expiry, the intervening period must not exceed one year.
5. The name and strength of any preservative or anti-oxidant added should be mentioned.

Caution.—If the solution is brown in colour or contains a precipitate it must be rejected.

[No. F.1-14/50-D.S.]

N. C. MUKERJI, Dy. Secy.

MINISTRY OF TRANSPORT

(Transport Wing)

ORDER

MERCHANT SHIPPING

New Delhi the 7th April, 1954

S.R.O. 1231-1232—In exercise of the powers conferred by section 192 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby directs that the following amendments shall be made in the unberthed Passengers (Availability of Space) Order, 1953, published with the notification the Government of India in the Ministry of Transport No.S.R.O. 1174, dated the 16th June 1953, namely :—

In the said Order,

1. In paragraph 2 after clause (c) the following clause shall be inserted, namely :—

“(f) Decks on which unberthed passengers are accommodated are defined as follows :

- (i) “weather deck” is the uppermost fore and aft continuous deck fully or partially exposed to weather which may be wholly or partially used by passengers ;
- (ii) “upper deck” in shelter deck ships (closed or open) is the deck below the shelter deck (which is the weather deck in that ship.) Upper deck in non-shelter deck ship is the weather deck ;
- (iii) “upper between deck” is the deck below the upper deck ;
- (iv) “lower between deck” is the deck below the upper between deck.”

2. For the scale of space in paragraph 4, the following scale shall be substituted, namely :—

	“Fair weather	Foul weather
Weather and upper between deck	10 superficial ft. and 60 cu. ft. for existing ships and 70 cubic feet for new ships.	12 superficial ft. and 72 cubic feet for existing ships and 84 cubic feet for new ships.
Lower between deck	12 superficial ft. and 72 cubic ft. for existing ships and 84 cubic ft. for new ships	15 superficial ft. and 90 cubic ft. for existing ships and 105 cubic ft. for new ships.”

3. For the scale of space in sub-paragraph (a) of paragraph 5, the following scale shall be substituted, namely :—

	“Fair weather	Foul weather
Weather deck	12 superficial ft. and 72 cubic ft. for existing ships and 84 cubic ft. for new ships.
Upper between deck	12 superficial ft. and 72 cubic ft. for existing ships and 84 cubic ft. for new ships.	12 superficial ft. and 72 cubic ft. for existing ships and 84 cubic ft. for new ships.
Lower between deck	14 superficial ft. and 84 cubic ft. for existing ships and 98 cubic ft. for new ships	15 superficial ft. and 90 cubic ft. for existing ships and 105 cubic ft. for new ships.”

4. In sub-paragraph (a) of paragraph 11, after the words “two feet” the words “or the width of the door, whichever is greater”, shall be inserted.

5. In sub-Paragraph (b) of paragraph 11, after the words “such spaces” the words “except in respect of ladderways” shall be inserted.

6. For the words “upper (weather) deck” wherever they occur, the words “weather deck” shall be substituted.

New Delhi, the 10th April 1954

S.R.O. 1233.—In pursuance of clause (a) of sub-section (1) of section 213B of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government hereby declares that the Government of Costa Rica have accepted the Load Line Convention, as defined in clause (c) of section 213-A of the said Act, that is to say, the Convention signed in London on the fifth day of July, nineteen hundred and thirty, for promoting safety of life and property at sea, as amended from time to time.

[No. 42-MA(4)/54.]

S. K. GHOSH, Dy. Secy.

(Transport Wing)

PORTS

New Delhi, the 10th April 1954

S.R.O. 1234.—In exercise of the powers conferred by sub-section (2) of section 13A of the Madras Port Trust Act, 1905 (Madras Act II of 1905), read with the notification of the Government of India in the Ministry of Transport, No. 13-PI(124)/53, dated the 15th February, 1954, the Central Government hereby directs that the Andhra Chamber of Commerce, Madras, shall elect from among its own number two persons to be the Trustees of the Madras Port Trust Board before the 9th May, 1954.

[No. 13-PI(124)/53.]

K. NARAYANAN, Under Secy.

REGISTRAR OF JOINT STOCK COMPANIES

NOTICES

Sambalpur, the 5th April 1954

NOTICE UNDER SECTION 247(3) OF THE INDIAN COMPANIES ACT, 1913.

In the matter of the Indian Companies' Act, 1913 and Kishore Transport and Electricals Limited.

S.R.O. 1235.—Whereas notices issued pursuant to sections 247(1) and 247(2) of the Indian Companies' Act, 1913 to the above Company at its registered Office, Old College Lane, Cuttack, were received back undelivered.

And whereas it appears accordingly that the Kishore Transport and Electricals Limited is not carrying on business nor is it in operation.

Notice is hereby given pursuant to Section 247(3) of the Indian Companies' Act, 1913, that unless cause is shown to the contrary before the expiration of three months from the date of this notice, the name of the said Company will be struck off the register and the said Company will be dissolved.

[No. 376/J.S.C./140/54.]

Sambalpur, the 6th April 1954

In the matter of the Indian Companies Act, 1913 (VII of 1913) and the East India Match Company Limited.

S.R.O. 1236.—Notices pursuant to section 247(1), (2) and (3) of the Indian Companies' Act, 1913, having been given to the above Company to its registered Office, P.O. Baripada, District Mayurbhanj and having been received back undelivered, it appears that it is neither carrying on business nor is it in operation. The East India Match Company Limited is struck off under section 247(3) of the said Act under orders of the Registrar of Joint Stock Companies, Orissa, dated the third day of April, 1954.

[No. 386/J.S.C.137/54.]

S. N. MISRA,

Assistant Registrar of Joint Stock Companies,
Orissa, Sambalpur.

Delhi, the 5th April 1954

NOTICE UNDER SECTION 247(5) OF THE INDIAN COMPANIES ACT VII OF 1913.

In the matter of Messrs. Delhi U.P. Goods Transport Co. Ltd.

S.R.O. 1237.—With reference to my Notification No. C.779/J.S.C., dated the 1st November 1950, published under Section 247(3) of the Indian Companies Act, 1913, it is hereby notified that under the provisions of Section 247(5) of the said Act, the company known as Messrs. Delhi U.P. Goods Transport Co. Ltd. has been struck off the Register.

[No. C.779/J.S.C.]

NOTICE UNDER SECTION 247(5) OF THE INDIAN COMPANIES ACT VII OF 1913.

In the matter of Messrs. Punjab Art Pictures Ltd.

S.R.O. 1238.—With reference to my Notification No. C.1195/J.S.C., dated the 13th October 1952, published under Section 247(3) of the Indian Companies Act, 1913, it is hereby notified that under the provisions of Section 247(5) of the said Act, the company known as Messrs. Punjab Art Pictures Ltd. has been struck off the Register.

[No. C.1195/J.S.C.]

Delhi, the 8th April 1954

NOTICE UNDER SECTION 247(3) OF THE INDIAN COMPANIES ACT VII OF 1913 .

In the matter of M/s. Savoy Ltd.

S.R.O. 1239.—Whereas there is reasonable cause to believe that the company named M/s. Savoy Ltd. is not carrying on business nor is in operation it is hereby notified that at the expiration of three months from the date hereof, the name of the company will, unless cause is shown to the contrary, be struck off the Register and the company will be dissolved.

[No. C/652/J.S.C.]

NOTICE UNDER SECTION 247(3) OF THE INDIAN COMPANIES ACT VII OF 1913 .

In the matter of M/s. The Swedeshi Oil and General Mills Ltd.

S.R.O. 1240.—Whereas there is reasonable cause to believe that the company named M/s. The Swedeshi Oil and General Mills Ltd. is not carrying on business for is in operation it is hereby notified that at the expiration of three months from the date hereof, the name of the company will, unless cause is shown to the contrary, be struck off the Register and the company will be dissolved.

[No. C/789/J.S.C.]

B. R. SETH, Registrar,

Joint Stock Companies, Delhi.

Bombay, the 6th April 1954

In the matter of the Indian Companies Act, VII of 1913 and of the Vihari Limited.

S.R.O. 1241.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Vihari Limited, will unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

[No. 6911.]

In the matter of the Indian Companies Act, VII of 1913 and of the B. R. Zavar and Company Limited.

S.R.O. 1242.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the B. R. Zavar and Company Limited will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

[No. 6051.]

In the matter of the Indian Companies Act, VII of 1913 and of the Shri Gautam Trading Syndicate Limited.

S.R.O. 1243.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act VII of 1913, that at the expiration of three months from the date hereof the name of the Shri Gautam Trading Syndicate Limited will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

[No. 5360.]

In the matter of the Indian Companies Act, VII of 1913 and of the Balloon Industries Limited.

S.R.O. 1244.—Notice is hereby given pursuant to sub-section (5) of the Section 247 of the Indian Companies Act, VII of 1913 that the name of Balloon Industries Limited has this day been struck off the Register and the said Company is hereby dissolved.

[No. 4528.]

In the matter of the Indian Companies Act, VII of 1913 and of the Heberline & Co. (Insurance) Limited.

S.R.O. 1245.—Notice is hereby given pursuant to sub-section (5) of the Section 247 of the Indian Companies Act, VII of 1913 that the name of Heberline & Co. (Insurance) Limited has this day been struck off the Register and the said Company is hereby dissolved.

[No. 3974.]

Bombay, the 7th April 1954

In the matter of the Indian Companies Act, VII of 1913 and of Messrs. Kiran Dairy Farm Limited.

S.R.O. 1246.—Notice is hereby given pursuant to sub-section (5) of the Section 247 of the Indian Companies Act, VII of 1913 that the name of the Messrs. Kiran Dairy Farm Limited has this day been struck off the Register and the said Company is hereby dissolved.

[No. 5124.]

Bombay, the 8th April 1954

In the matter of the Indian Companies Act, VII of 1913 and the Indian Products Supplying Agency Limited.

S.R.O. 1247.—Notice is hereby given pursuant to sub-section (5) of the Section 247 of the Indian Companies Act VII of 1913 that the name of Indian Products Supplying Agency Limited has this day been struck off the Register and the said Company is hereby dissolved.

[No. 448.]

In the matter of the Indian Companies Act, VII of 1913 and of the M/s. New Central Transport Co., Limited

S.R.O. 1248.—Notice is hereby given pursuant to Section 247 of the Indian Companies Act, VII of 1913, that at the expiration of three months from the date hereof the name of the M/s. New Central Transport Co., Limited will, unless cause is shown to the contrary, be struck off the Register and the said Company will be dissolved.

[No. 4263.]

M. V. VARERKAR,
Registrar of Companies, Bombay.

MINISTRY OF COMMUNICATIONS
(Posts and Telegraphs)

New Delhi, the 8th April 1954

S.R.O. 1249.—In pursuance of clause (c) of sub-rule (i) of rule 14-A of the Indian Post Office Rules, 1933, the Central Government hereby directs that with effect from the 1st May, 1954 the area comprised within the Tiruchirapally and Golden Rock (Railway Colony) will be treated as a single local delivery area. Postage rates for post cards between Tiruchirapally and Golden Rock shall be the local postage rates with effect from that date.

[No. D.52-7/52.]

V. M. BHIDE, Dy. Secy.

MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH

New Delhi, the 9th April 1954

S.R.O. 1250.—In exercise of the powers conferred by section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby directs that the following further amendment shall be made in the Mineral Concession Rules, 1949, namely:—

In the said Rules, after rule 62, the following rule shall be inserted, namely:—

“62-A. *Power to rectify apparent mistake.*—The State Government or the Central Government, as the case may be, may, at any time within six months from the date of an order passed by it under these Rules, on its own motion rectify any mistake or error apparent on the face of the record, and shall, within the like period, rectify any such mistake or error which has been brought to its notice by an applicant for the grant of a mineral concession:

Provided that, no such rectification having or purporting to have a prejudicial effect on another applicant for the grant of the same mineral concession shall be made unless the State Government or the Central Government, as the case may be, has given such applicant notice of its intention so to do, and has allowed him reasonable opportunity of being heard.”

[No. M.II-159(1)/54.]

T. GONSALVES, Dy. Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

(Central Boilers Board)

New Delhi, the 8th April 1954.

S.R.O. 1251.—The following draft of a further amendment to the Indian Boiler Regulations, 1950, which the Central Boilers Board propose to make in exercise of the power conferred by section 28 of the Indian Boilers Act, 1923 (V of 1923), is published as required by sub-section (1) of section 31 of the said Act, for the information of persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration after the 31st May 1954.

Any objection or suggestion which may be received from any person by the Secretary, Central Boilers Board, Ministry of Works, Housing and Supply, North Block, New Delhi, with respect to the said draft before the dated specified will be considered by the Central Boilers Board.

Draft Amendment

In regulation 382 of the said Regulations after the entry relating to “Travancore-Cochin” the following entry shall be inserted, namely:—

“Andhra.....A.N.”

[No. BL-304(22)/53.]

S.R.O. 1252.—In exercise of the powers conferred by section 28 of the Indian Boilers Act, 1923 (V of 1923), the Central Boilers Board directs that the following amendment shall be made in the Indian Boiler Regulations, 1950, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely :—

At the end of Appendix E of the said Regulations the following shall be inserted, namely :—

“STANDARD PIPE FLANGES”

The different tables of flange dimension (Tables F-T) have been designed to suit pipes and vessels containing steam at a maximum temperature of 800° F.

If the temperature is higher than 800° and does not exceed 900°F, the following Table should be used for the next higher pressure.

Water pipes for a given pressure in which the water temperature does not exceed 450°F, may be fitted with Flanges to the next lower Table than that required for steam at the stated pressure and a maximum temperature of 800°F.

In all cases the hydraulic test pressure should be twice the working pressure to which the pipes are subjected in use.

Table showing the permissible application of pipe flanges tables

Pressure Lb/sq. in.	Steam at 900° F	Steam at 800° F.	Water at 450° F.	Hydraulic Test pressure, Lb/sq. in.
1400 . . .	Table ..	Table T	Table S	2800
900 . . .	T	S	R	1800
600 . . .	S	R	K	1200
450 . . .	R	K	J	900
350 . . .	K	J	H	700
250 . . .	J	H	F	500
150 . . .	H	F	..	300

[No. BL-304(18)/52-1
M. N. KALE, Secy.]

MINISTRY OF LABOUR

New Delhi, the 6th April 1954

S.R.O. 1253.—In pursuance of section 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour S.R.O. 2155, dated the 16th November 1953, relating to the Employees' State Insurance Corporation, namely:—

In the said notification for item (3), the following item shall be substituted, namely:—

“3. Shri K. N. Subramanian, I.C.S., Joint Secretary to the Government of India, Ministry of Labour.”

[No. SS.121(75)A.]

New Delhi, the 8th April 1954

S.R.O. 1254.—In exercise of the powers conferred by section 73-B of the Employees' State Insurance Act, 1948 XXXIV of 1948), the Central Government hereby makes the following amend-

ments in the notification of the Government of India in the Ministry of Labour No. S.R.O. 466, dated the 5th March 1952, namely :—

“In the statement accompanying the said notification—

In Part A —

(a) before the entries relating to Bihar, the following entries shall be inserted namely:—

Name of State.	Authority empowered to hear disputes under chapter V-A of the Employees' State Insurance Act, 1948.	Jurisdiction
Andhra	<ol style="list-style-type: none"> 1. The Commissioner for Workmen's Compensation, Andhra (Commissioner of Labour). 2. The Additional Commissioner for Workmen's Compensation, Andhra. (Assistant Commissioner of Labour.) 	State of Andhra.

(b) against the entries relating to “Madras”, the entries in column 2 against item 3 and the corresponding entries in column 3 shall be omitted.

[No. SS. 122 (59).]

K. N. NAMBIAR, Under Secy.

New Delhi, the 6th April 1954

S.R.O. 1255.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of an application under section 33A of the said Act from Shri Dukhaharan Passi, a workman of Loyabad Colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

APPLICATION No. 142 of 1953

(arising out of Reference No. 6 of 1952).

In the matter of application under section 33A of Industrial Disputes Act, 1947.

PRESENT

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES

Dukhaharan Passi, Trammer, Loyabad Colliery, P.O. Bansjora, District Manbhum—*Complainant.*

versus

Messrs. Burrakar Coal Co. Ltd., Loyabad Colliery, P.O. Bansjora, District Manbhum—*Opposite party.*

APPEARANCES

Shri Lalit Burman, General Secretary, Loyabad Labour Union, P.O. Bansjora, District Manbhum—*For the Complainant.*

Shri D. N. Gupta, Chief Personnel Officer, Messrs. Bird and Co. Ltd., P.O. Sijua, District Manbhum—*For the Opposite party.*

AWARD

This is a complaint under Section 33A of the Industrial Disputes Act.

2. The complainant alleged that he was working as a trammer in the Loyabad Colliery under the management of the opposite party and was suspended by a letter of 20th May, 1952. He is still under suspension. This order was served on him during the pendency of Reference No. 6 of 1952, and also during the pendency of conciliation proceedings. The opposite party applied to the Conciliation Officer for permission to dismiss the complainant; but in spite of the Conciliation Officer's decision, they refused to reinstate him. The complainant has been kept under suspension for a long period, though under the standing orders the period of suspension could not exceed 10 days. The complainant therefore urged that proper orders should be passed in the case.

3. The opposite party urged that the application was not maintainable. It also urged that it had not altered the conditions of service of the complainant and denied that the order of suspension was wrongful and illegal. It further stated that the complainant was found guilty of disobedience and insubordination and an application was made to the Conciliation Officer on 5th May, 1952 to dismiss him. On 15th May, 1952 the management suspended him. At the request of the Conciliation Officer, the management offered his job to the applicant but he insisted that he should be paid wages for the period of his idleness, that is to say, from the date on which he was suspended to the date of reinstatement, and the management were not able to comply with this unreasonable demand. The complainant had been found guilty of misconduct on six occasions. In spite of this, the management was ready and willing to reinstate him; but in view of his unreasonable demand for wages, he was not taken in. The opposite party therefore urged that the complaint should be dismissed.

4. It is an admitted fact that the complainant was working as a trammer in Pit No. 10 of Loyabad Colliery which belongs to the opposite party. It is not in dispute that he was in service for several years during which period there does not appear to have been any complaint against him. Between 27th November 1950 and 27th March, 1952, however, he was served with six different charge-sheets. Ultimately he was placed under suspension by a letter dated 20th May, 1952 addressed to him by the management of the colliery. The complainant has filed the present complaint stating that his suspension was illegal.

5. The following facts are not in dispute and are amply borne out by the papers filed in the case and also papers in the file of the Conciliation Officer. The complainant was served with charges dated 27th November, 1950, 28th February, 1951, 21st September, 1951 and 15th February, 1952. These charges were not very serious. For the first charge-sheet he was given a severe warning; while in respect of the other three, he was suspended for two days, three days, and one day respectively.

6. It then appears that he was served with a charge-sheet dated 13th March, 1952 and another charge-sheet on 2nd April, 1952. The charge-sheet dated 13th March, 1952 has not been produced before me. On being questioned by me, Mr. Gupta on behalf of the management said that they had not got this charge-sheet on their file and it was either lost or misplaced. A reference was made to this charge-sheet by the opposite party in its written statement and also in the letter of suspension addressed to the complainant. But neither of these documents mentions as to what misconduct the complainant was charged with thereunder. The written statement mentions that on 13th March, 1952 the complainant was charge-sheeted for misconduct and his explanation was found unsatisfactory. The letter addressed to the complainant dated 20th May, 1952 refers to the charge-sheet dated 13th March, 1952 and his reply and mentions that the reply was most unsatisfactory and (hence) he was suspended immediately. That letter further mentions that the complainant's case had been forwarded to the Conciliation Officer for his decision.

7. The complainant was lastly served with a charge-sheet dated 27th March, 1952 for failure to carry out the instructions of his superior, the Overman and for behaving improperly and in an unruly manner. This charge-sheet has been produced before me. The complainant gave a reply thereto denying the charge-sheet. It appears that after this the management recorded the statement of two or three workmen on 5th April, 1952. I shall assume for the present that these statements were sufficient to prove the charge dated 27th March, 1952 against the complainant.

8. It appears that some conciliation proceedings were pending before the Conciliation Officer at that time, with the result that the management could not alter the conditions of service applicable to the complainant or discharge or punish him whether by dismissal or otherwise without the express permission in writing of the Conciliation Officer because of the provisions of Section 33 of the Industrial Disputes Act. Hence the management wrote a letter to the Conciliation Officer on 5th May, 1952 asking for permission to dismiss the complainant. They sent a reminder on 17th May, 1952. In that reminder, they also informed him that according to a discussion they had with the Conciliation Officer on 15th May, 1952, they were suspending the complainant pending his decision regarding dismissal. On 20th May, 1952 the management issued a letter of suspension to the complainant as already stated above.

9. It appears that a discussion between the Conciliation Officer and the representatives of the management and the workmen's union and the complainant took

place on 24th May, 1952. Thereafter the Conciliation Officer wrote a letter to the management on 4th June, 1952 asking them to retain the complainant in service. Para. 2 of this letter shows that the Conciliation Officer was not satisfied regarding the allegations made against the complainant. He said that he was therefore of opinion that the complainant should be given one more chance and should be retained in service. Accordingly he wrote the above letter.

10. After this, the complainant approached the management for reinstatement. It appears that at that time he also asked that he should be paid his wages from the date of his suspension to the date of his reinstatement. The management not only refused to pay him wages for this period but asked for an undertaking from him that he would not claim them and said that unless such an undertaking was given, they would not re-employ him. The complainant was not prepared to give such an undertaking and he was therefore not re-employed. He wrote to the Conciliation Officer on 18th July, 1952 stating that the management had refused to give back his job to him unless he agreed to give an undertaking. It was also mentioned in that letter that the complainant should be given back the job without any undertaking and the question of wages for the period of suspension may be taken up separately for conciliation. On 29th July, 1952, the Conciliation Officer wrote to the management asking them what action they had taken in connection with the letter dated 4th June, 1952 under which he had asked that the complainant should be retained in service. On 5th August, 1952 the management sent a reply stating that the complainant was offered his job back but he did not agree to forego any claim to the wages for the period of his suspension. The management also mentioned that they were still ready to take the complainant back but were not willing to pay him wages for the period of his unemployment, as that would amount to an admission that the complainant was not guilty of any offence. On 8th October, 1952, the Conciliation Officer wrote to the management stating that it had been reported to him that they had not reinstated the complainant and that they should do so at an early date. The management replied on 27th October, 1952 referring to their letter on 5th August, 1952, stating that they had clarified their position in that letter. On 4th December, 1952 the Conciliation Officer again wrote a letter to the management stating that it had been reported to him that the management wanted to take some undertaking from the complainant before reinstating him and that the management had not raised any question of the kind at the time of discussion before the Conciliation Officer and that it would not be proper for them at this stage to advance any such plea. The Conciliation Officer therefore requested the management to reinstate the complainant without further delay. The letter further mentioned that if there be anything for further discussion or conciliation, it would be taken up later on. The management replied to this on 8th December, 1952 stating that they did not want anything in writing from the complainant when a job was offered to him on 5th August, 1952 but he claimed wages for the period when he was without a job and the management could not agree to this demand, and the complainant refused to accept the offer of employment. The letter further mentions that the post had since been filled up and there was no vacancy at that time.

11. On 27th December, 1952, the Conciliation Officer wrote to the management stating that the complainant had shown a draft of an undertaking which he was asked to sign and which he had refused to sign. The Conciliation Officer further mentioned that he had requested the management by his letter dated 4th June, 1952 to reinstate the complainant. Instead of taking him back in service, the management asked him to give an undertaking under which he agreed to forego his wages for the period of his suspension. The Conciliation Officer also stated in this letter that he was surprised to learn that the management had filled up the post and that there was no vacancy. It would have been proper for the management to have informed the Conciliation Officer in advance that they were going to fill it up. He again requested the management to reinstate the complainant. On 6th February, 1953 the management replied to the Conciliation Officer stating that the complainant was found guilty of disobedience and insubordination and an application was made to the Conciliation Officer for permission to dismiss him by letter dated 5th May, 1952 and as per discussion between the management and the Conciliation Officer on 15th May, 1952 the complainant was suspended and a reminder was sent to the Conciliation Officer for his decision. On 4th June, 1952 the Conciliation Officer expressed the opinion that the complainant should be given another chance. The management thereupon offered back his job but he insisted that he should be paid wages for the period of his idleness. The management could not agree to this and wanted an undertaking that he would not claim wages for the period of his suspension. The position was explained to the Conciliation Officer by a letter, dated 5th August, 1952 in which it was also stated that they would be ready to take the complainant back but were not willing to admit any

claim for wages for the period of his idleness. The letter then referred to further correspondence and lastly said that the management would offer a job to the complainant as soon as there was a vacancy. Nothing happened after this till 8th July, 1953 when the complainant filed the present complaint before this Tribunal.

12. As I said above, the complainant's grievance arises because he was suspended by a letter dated 20th May, 1952. That suspension was not only during the pendency of conciliation proceedings but also during the pendency of Reference No. 6 of 1952 before this Tribunal. An order referring a dispute about paid holidays between various collieries (including the Loyabad Colliery) and their workmen was referred to this Tribunal by the Government of India by an Order dated 5th May, 1952. Under Section 20(3) of the Industrial Disputes Act, proceedings before a Tribunal are to be deemed to have commenced on the date of the reference to a Tribunal for adjudication. In other words, the proceedings of Reference No. 6 of 1952 must be deemed to have commenced on 5th May, 1952. Hence the order of suspension passed on 20th May, 1952 offended the provisions of Section 33 of the Industrial Disputes Act, in two ways. Firstly, that order was passed during the pendency of conciliation proceedings and secondly it was passed during the pendency of proceedings before a Tribunal. Now so far as the conciliation proceedings are concerned, the management did approach the Conciliation Officer for permission to dismiss the complainant. I shall presently come to this; but so far as the proceedings before this Tribunal were concerned, no such permission was asked for and the action of the management in suspending the complainant amounted to a breach of Section 33 of Industrial Disputes Act. The present complaint would therefore be maintainable under Section 33A of the Industrial Disputes Act.

13. Before proceeding further, I may mention that the management do not appear to have passed a specific order of dismissal or discharge of the complainant. The only order that they have passed is an order of suspension. This order therefore does not offend the provisions of clause (b) of Section 33; because there is no discharge or punishment. Punishment pre-supposes that the action is taken as a result of some misconduct being proved. Suspension however does not necessarily mean that a misconduct is proved. The order of suspension without pay, however, does commit a breach of clause (a) of Section 33, under which an employer cannot alter the conditions of service of a workman during the pendency of conciliation proceeding or proceedings before a Tribunal. Under the standing orders applicable to the coal industry, an employer cannot suspend a workman without pay either pending an enquiry or by way of punishment for a period exceeding 10 days. If the complainant was suspended without pay for a period exceeding 10 days, it would mean that the above clause of the standing orders was violated and the conditions of service applicable to the complainant were altered.

14. As I said above, the management approached the Conciliation Officer on 5th May, 1952 for obtaining his permission to dismiss the complainant. It appears that some discussion between the Conciliation Officer, representatives of the management and the labour union, and the complainant took place on 24th May, 1952. As a result thereof, the Conciliation Officer wrote a letter to the management on 4th June, 1952. As I mentioned above, para. 2 of this letter shows that the Conciliation Officer was not satisfied that the complainant was guilty of misconduct. In para. 3 of the letter, the Conciliation Officer stated that he was of opinion that the complainant should be given one more chance and should be retained in service. This clearly shows that the Conciliation Officer refused to give permission asked for by the management to dismiss the workman. The management were thereupon bound to continue the complainant in service. As I said above, the complainant had not been dismissed or discharged; but he was only suspended and as the permission for his dismissal was not granted, the management were bound to continue him in service. This meant that *prima facie* the complainant was ordinarily entitled to the wages for the period of his suspension. The period of his suspension may have been long, because the Conciliation Officer took some time to decide the matter. Whatever the reason of the delay may have been, the fact remains that the complainant remained under suspension without pay for no fault of his. He was charged with misconduct and permission was asked for from the Conciliation Officer to dismiss him. The Conciliation Officer held the misconduct not proved and refused to give permission and asked the management to continue the complainant in service. On this, the management should have cancelled the order of suspension, and reinstated him.

15. It does appear that the complainant was offered his job after this. When he went for his job, he also claimed that he should be paid the wages for the period of his suspension. The management refused to pay him the wages for this

period, and further insisted that the complainant should pass an undertaking stating that he would not claim wages for the period of his suspension. The letter of the management addressed to the Conciliation Officer on 6th February, 1953 specifically states that the management wanted an undertaking from the complainant that he would not claim wages for the period of his suspension. The complainant was not prepared to give an undertaking to this effect and hence he was not put back on his job.

16. I am constrained to remark that the management in this case have shown scant regard for orders passed by the authorities. They approached the Conciliation Officer for permission to dismiss the complainant and though such a permission was refused, they did not give back his job to the complainant. They asked for an undertaking from him that he would not claim the wages for the period of suspension. As I mentioned above, ordinarily the complainant was entitled to the wages for the period of his suspension and the management were not right in asking the complainant to forego his claim for the wages for the period of his suspension. The matter however does not rest here. When the Conciliation Officer was approached in the matter, he wrote to the management stating that no question of the complainant being not paid his wages for the period of suspension had been raised at the time of discussion before him, nor had any question about an undertaking being taken from the complainant been raised before him and it would not be open to the management to raise any such question at that stage. In other words, this letter of the Conciliation Officer implied that the complainant was entitled to wages for the period of his suspension. The Conciliation Officer also added that the complainant should be reinstated forthwith and any other question or dispute, if any, may be discussed later on. This implied that the question of wages for the period of suspension would be discussed at a later stage. In spite of this, the management did not take the complainant in service and even appointed someone else in his place without informing the Conciliation Officer and without passing any order of dismissal of the complainant. This shows that the management were determined to dismiss the complainant irrespective of the fact whether the authorities granted the permission to do so or not.

17. It was argued before me that the misconduct of the complainant has been duly established and hence, in any case, he is now not entitled to reinstatement. In this connection, I may mention that the complainant was suspended by the management by their letter dated 20th May, 1952 which refers to a charge-sheet dated 13th March, 1952. In other words, he was suspended in respect of some misconduct for which a charge-sheet was served on him on 13th March, 1952. As I pointed out, this charge-sheet has not been produced before me nor is there anything on record to show as to what misconduct was alleged against him in that charge-sheet. It may be that the complainant may have subsequently committed another misconduct for which a charge-sheet dated 27th March, 1952 was served on him. It may also be that he may have been found guilty of that misconduct. But he was suspended or dismissed as a result of the charge-sheet dated 27th March, 1952. The management cannot now rely on another charge-sheet for holding that the complainant should not be reinstated. The complainant was informed that he was suspended as a result of a charge-sheet dated 13th March, 1952. The management cannot now make out a case that he was suspended as a result of charge-sheet of 27th March, 1952 or that he should not be reinstated because of misconduct for which the charge-sheet, dated 27th March, 1952 was issued to him. That would take the complainant by surprise and he would have no opportunity to meet that case.

18. Regarding the charge-sheet dated 13th March, 1952, I might repeat that it has not been produced before me and also that there is nothing to show as to what misconduct was then alleged against him. There is also nothing to show whether an enquiry was held in respect of that charge. Thus so far as the charge-sheet dated 13th March, 1952 is concerned, the complainant could not and should not be punished. He could neither be dismissed nor discharged.

19. On the whole, I hold that the dismissal of the complainant was not justified and he is therefore entitled to reinstatement. Regarding his past wages, it may be noted that though he was suspended on 20th May, 1952, he filed the present complaint only on 8th July, 1953. It however appears that up to December 1952, he was moving the Conciliation Officer in the matter and he must have been hopeful that he would be reinstated. But after the letter of the management on 8th December, 1952, in which they stated that they had already filled up the post and there was no vacancy, the complainant should not have sat idle, but should have moved the Tribunal immediately. It is true that there is no time limit for making a complaint under Section 33A of the Industrial Disputes Act; but ordinarily the workmen are supposed to take prompt action, and any negligence on their

part would disentitle them to the wages for the period of idleness; otherwise a workman would get wages for the period when he should have and could have worked, if he had approached the Tribunal earlier. I would therefore direct that in the present case, the complainant should not get back wages for the period between 8th December, 1952 to 7th July, 1953. This should not constitute a break in his service and this period should be treated as on leave without pay.

In the result, it is ordered that the complainant should be reinstated in his former post within 15 days of this award becoming enforceable. He should also be paid his full wages, dearness allowance, and other benefits as if he was on service from the date of his suspension up-to-date, except for the period between 8th December, 1952 and 7th July, 1953. For this period, he would not be entitled to any wages, dearness allowance, etc. This period, however, would not constitute as a break in service, but the complainant should be treated as on leave without pay during this period. The arrears of wages should be calculated on the basis of his average earnings in the month of April 1952. The arrears of wages should be paid to him within 15 days of this award becoming enforceable.

I pass my award accordingly.

The 22nd March, 1954.

(Sd.) L. P. DAVE, Chairman.

Central Government Industrial Tribunal, Dhanbad.

[No. L.R.2(365)/II.]

New Delhi, the 8th April 1954

S.R.O. 1256.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (Banks Disputes), Calcutta, in a dispute between the Bank of India, Limited, Bombay, and their workmen:—

INDUSTRIAL TRIBUNAL (BANK DISPUTES) AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

PRESENT:

Shri C. Bhaktavatsalu Naidu, B.A., B.L.—*Chairman.*

Shri G. Palit—*Member.*

Shri R. M. Koppikar—*Member.*

INDUSTRIAL DISPUTE NO. 1 OF 1953.

BETWEEN

The employers in relation to the Bank of India Ltd., Bombay

AND

Their Workmen.

APPEARANCES:

Shri H. M. Seervai, Advocate, with Shri J. P. Thacker, Solicitor (of Messrs Mulla & Mulla & Craigie, Blunt & Caroe, Solicitors) for the Bank of India Ltd.

Shri K. T. Sule, Counsel, assisted by Shri G. N. Trikannad, General Secretary, Federation of the Bank of India Staff Unions and Shri G. G. Dholakia, Vice-President, All India Bank Employees' Association.

AWARD

By Order No. LR-100(67)/II, dated 28th September 1953, the industrial dispute existing between the Bank of India Ltd., Bombay and their workmen concerning the writing of pass books by ledger keepers employed in the said Bank was referred to this Tribunal for adjudication. This reference is in supersession of the order of the Government of India in the Ministry of Labour No. S.R.O. 325, dated the 16th February 1952. Notices having been issued to the parties on the 13th October 1953, the Federation of the Bank of India Staff Unions purporting to represent the majority of the employees of the Bank of India Ltd., all over India filed a statement of claims on the 2nd November 1953. The Bank of India Ltd., Bombay filed their written statement on 23rd November 1953. The claim of the Federation of the Bank of India Staff Unions is based on their demand that "Ledger Keepers should not be asked to write and deliver pass books and/or statements".

The case of the employees as set out in the statement of claims is as follows:

The Bank of India Ltd. is one of the biggest Banks in India with 38 branches. It is one of the most prosperous Banks in India making attractive profits every year, whose reserve fund exceeds the paid up capital. Nevertheless the labour employed in this Bank is much less than in all other Banks of its stature as it has got on its pay roll only about 2300 employees. The current account department is a major department and is also the busiest department because as within a scheduled period of time the most important work of the Bank has to be completed with speed and accuracy and any delay or mistake will bring discredit to the Bank and may entail on the Bank losses.

The most important of the multifarious duties of a ledger keeper are: (1) to scrutinize the cheques drawn by the constituents of the Bank, (2) to examine the credit position, (3) to post them in the ledger, draw out the balance and get the cheque passed or return with an advice to the party and send the same to Cash Department for payment. Because of the onerous nature of the job, the volume of work and the limited time at the disposal of a ledger keeper he should not be required to write or deliver pass books and/or statements in any other Bank. His work has also increased in view of the innumerable statements and particulars of accounts that are required to be submitted to the Reserve Bank of India. He has also to send credit advice to the parties. He has to copy out in the pass book and the statement the figures, balances, etc. of each account of the constituent. In the Bank of India a ledger keeper is entrusted with two ledgers and on an average there is about 300 accounts in each ledger. In addition, there are internal vouchers like those of dividend, collection charges, commission, etc. All these entries together with the balances have to be entered in the pass books. The pass book and statements are handed over to the constituents by the ledger keepers at the counter. During the Banking hours the ledger keeper is very busy. The constituent either deposits or takes delivery of pass books from the ledger keepers.

On account of these onerous duties, the Federation of Bank of India Staff Unions raised a dispute and demanded in 1951 that no ledger keeper should be asked to write pass books and/or statements. Even before the formation of the Trade Union the employees had on many occasions represented to the Bank to relieve them of the writing and delivery of pass books. The Bank of India Staff Unions, Bombay, having failed to get any redress from the Bank, approached the conciliation machinery under the Bombay Industrial Relations Act, 1946, but because of certain technical difficulties, the issue could not be settled. In 1949 the Central Government passed an Ordinance by which the labour disputes in certain Banks were taken away from the purview of the said Act. The employees then raised the dispute before the Sen-Tribunal but the dispute could not be adjudicated. Not having obtained any redress as a result of conciliatory approaches, the employees of the Bank in Bombay observed an one day token strike on the 8th March 1951. On 21st April 1951 the ledger keepers in Bombay intimated their decision to stop writing and delivering of pass books and statements. On 24th May 1951 the Bank approached the Regional Labour Commissioner, Bombay and as a result of the talks it was decided that an *Ad Hoc* Board consisting of a representative of the Bank, a representative of the Union and a representative of the Regional Labour Commissioner should investigate and recommend ways and means to settle the dispute.

The report of the *Ad Hoc* Board was submitted on 3rd July 1951. The report among other things recommended that a separate pass book department should be started by the Bank and it was stated in the report that the nature of work of ledger keepers was very exacting and the ledger keepers did not get any time to write pass books. The recommendation of the *Ad Hoc* Board was not implemented but on 24th October 1951 the Bank unjustifiably increased the working hours and submitted a plan which was not accepted by the Union.

The ledger keepers decided on 28th November 1951 that they would not write and deliver pass books from 3rd December 1951 and from that day onwards till 5th February 1952 the ledger keepers in Bombay did not write and deliver pass books. The Federation of the Bank of India Staff Union thereafter submitted a list of demands and notice on 10th December 1951 including the demand relating to the writing of pass books. As the Bank failed to comply with any of the demands a general strike from 24th December 1951 all over India took place. The Government appointed a Tribunal on 5th January 1952 and referred the general disputes of the Bank employees for adjudication. The strike was called off but the Bank locked out the employees till the 5th February 1952. The Bank lifted the lock out on condition that the ledger keepers should write pass books until the dispute was adjudicated upon. The dispute in question was referred to the All India Industrial Tribunal (Bank Disputes) in 1952 but this Tribunal did not adjudicate this dispute.

The demand of the employees is sought to be justified by the prevailing practice in other big Banks and also by the recommendation of the *Ad Hoc* Board. Hence the Federation prays that direction may be given to the Bank to relieve the ledger keepers from the duties of writing and delivering pass books.

The contentions of the employers (The Bank of India Ltd.) as set out in their written statement are the following: As no demand was made on behalf of the ledger keepers of the Bank's branches at (a) Palanpur, (b) Sholapur, (c) Amritsar and (d) Hyderabad, the Federation of the Bank of India Staff Unions cannot represent the workmen in those branches or agitate their demands. Similarly, with reference to the branches at Poona, Poona City, Junagadh, Bhuj, Kozhikode and Coimbatore also the Federation cannot represent the workers therein or agitate the demands, as no demands concerning pass books was made by the ledger keepers in those branches. Even as regards the new branches at Gandhidham in Kutch and New Delhi no demand was made and hence the matter cannot be agitated on their behalf. The demands were made by the Bank of India Staff Union, Bombay only on behalf of the workmen at the head office and the Bombay local branches and hence the workmen only in these offices are concerned in the adjudication.

After stating these contentions the Bank has set forth a short history relating to the demand commencing from March 1948 and ending with 16th February 1952 and it has been attempted to show that there was a variation in the demand from time to time. Reference is made to a letter written by Shri Ashok Mehta, President, Bank of India Staff Union, Bombay, dated the 12th March 1948 and to the negotiations thereafter till the 11th October 1948 and to the demand made by the employees' representatives on the 20th December 1948. Reference is also made to the conciliation proceedings held on the 14th January 1949, to the passing of an Ordinance on the 30th April 1949 by which the Banking industry was taken out of the purview of the Bombay Industrial Relations Act and to the constitution of the Sen-Tribunal on the 13th June 1949 before which demand was made on the 22nd February 1950 regarding writing of pass books under a Supplementary Reference. There is also reference made to the meeting between the Bank management and the Union officers on the 5th February 1951, the token strike of one day on the 8th March 1951 and to the further correspondence that ensued. Mention is also made about notice of two resolutions passed by the general body meeting of the Union held on the 20th April 1951, of the conciliation proceedings before the Regional Labour Commissioner on the 24th May 1951 and of a memorandum of settlement by the terms of which the dispute was referred to an *Ad Hoc* Board consisting of a representative of the Union, a representative of the Regional Labour Commissioner and a representative of the Bank nominated by the Bank from one of the officers of the Reserve Bank.

Details are given of the work of the *Ad Hoc* Board commencing from 31st May 1951 and of the submission of their report on the 3rd July 1951. It is stated that the Bank accepted the finding of the Board and that the Bank did not implement the report of the Board relating to the recommendation as it went beyond the scope of reference. Mention is then made of a scheme of re-distribution and re-organisation of accounts and of the rejection of the scheme by the Union on 26th October 1951. It is stated that the Union gave notice that from the 3rd December 1951 the ledger keepers would not be responsible for writing and delivering of pass books and statements and that the Bank protested against this refusal and gave notice of warning and thereafter certain ledger keepers were charge-sheeted and reprimanded. Reference is made to a list of demands by the Union sent on the 7th December 1951 and the 10th December 1951 and to the strike of the employees on the 24th December 1951 at the head office and at the number of branches. Mention is also made of the appointment of the Sastry-Tribunal on the 5th February 1952, to the orderped mww arthmw mfr tmmw Tribunal on the 5th January 1952, to the resumption of work by the ledger keepers on the 5th February 1952, to the order of reference to the Sastry-Tribunal on the 16th February 1952, to the statements before the Sastry-Tribunal and to the hearing before the Sastry-Tribunal fixed for the 18th March 1953. It is stated that as the Sastry-Tribunal became defunct on the 24th March 1953 and as no award was made with reference to this demand, the present reference was made on the 28th September 1953.

It is also stated that the working of the ledger keeper's department varies considerably from one office to another and that the work of the ledger keepers' department at the branches is considerably lighter than the work at the head office. Details are given of the working of the ledger keeper's department at the head office consisting of a big ledger section consisting of 78 big ledgers and a small ledger section known as "Share broker's ledger section". In the written

statement of the Bank the main duties of ledger keepers are detailed as items I to VIII under the following heads:

- (I) Posting of debit and credit vouchers in the ledgers,
- (II) Entries in debit balance books,
- (III) Entries in respect of New Accounts,
- (IV) Balancing of Ledgers,
- (V) Entries in respect of unpaid cheques,
- (VI) Writing of Pass Books and Statements,
- (VII) Attending to inquiries,
- (VIII) Miscellaneous duties consisting among others of writing daily summary of overdraft Balance Book and of giving once a week the names of accounts and amounts to their credit where such amount exceed Rs. 1,00,000.

As regards the posting of debit and credit vouchers it is stated that there has been a fall in the average number of vouchers per day per ledger keeper. While the average number in 1947 was 142 it came down to 140 in 1949, it rose to 142 in 1950 and again to 144 in 1951 and it came down to 128 in 1952 and rose again to 132 during the period January to June 1953. It is observed that the work of making entries in debit balance books constitutes a small part of a ledger keeper's work and that entries in respect of a new account will be only about 7 to 8 daily. As regards balancing of ledgers it is stated that the ledger keepers in the big ledger section have to balance their ledgers by jotting down debit and credit balances of all the accounts once in about 15 working days and that the balancing in the 'Share brokers ledger' is done every day. As regards writing of pass books and statements it is stated that the working during the first half of the month is comparatively more than the latter part of the month and that the work in the latter part of the week is generally less than the work in the second part of the week and that only when the rush of work has ceased that the ledger keepers write up pass books and statements except when they have to be written on the spot which emergency does not arise frequently. This is one of the reasons mentioned for stating that it is not advisable to separate ledger keeping and pass book writing. Another reason given is that no person other than the writer in the ledger is in a better position to write without effort and accurately in the pass book from his own hand writing in the ledger and that this arrangement economises labour and leads to greater efficiency.

Dealing with the report of the Ad Hoc Board it is stated that the finding clearly shows that the man-power as found was equal to the volume of the work and that there was sufficient time for writing pass books in addition to the ledger work and that even though the recommendation of the Board may have been well meant it went beyond the terms of the reference and hence was not binding. It is stated that separation of ledger keeping and pass book writing is not in the interest of the Bank and of the ledger keepers and that in a matter of this nature viz. separation of duties, each Bank must necessarily, having regard to the nature of its business and its clientele, be the best judge of what is suitable in the Bank's interest and that provided there is no hardship or excessive strain, the matter is one of domestic management alone.

In the rest of the written statement, particular reference is made to the allegations in the several paragraphs of the statement of claim and the same are answered. It is pointed out that the function of writing up of the ledgers and the function of writing of pass books and statements are complementary to each other and having regard to the experience of the Bank for over 47 years the Bank is of opinion that any change in the present set-up would result in serious dislocation and disruption in the normal routine work. The allegation that in no other Bank a ledger keeper is required to write pass books is denied and it is stated that both the functions are performed by one and the same clerk in the (1) National Bank of India Ltd., Bombay, (2) The Chartered Bank of India, Australia and China, Bombay, (3) The Bank of Baroda Ltd., Bombay, (4) The Mercantile Bank of India Ltd., Bombay, (5) The Eastern Bank Ltd., Bombay, and (6) The Allahabad Bank Ltd., Bombay. It is also pointed out that the work of the ledger keepers has gone down in recent times firstly, because of the general slump in trade and secondly, because of the fact that the Bank has weeded out unremunerative accounts. It is also pointed out that whenever it is felt by the management that any particular ledger keeper has at a given time such volume of work that he is unable to write pass books or statements he is

given an assistant to write up his pass books and that at every half-yearly closing, when the pass books are expected to be brought up to date each ledger keeper is given an assistant to help in writing pass books. It is also stated that pass books are deposited usually in special boxes maintained for the purpose and hence the deposits are not made with the ledger keepers.

It is also stated that maintaining of a ledger is not a work as to require continuous and uninterrupted attention for any length of time and that posting of vouchers is not a continuous process and that therefore there is no loss of efficiency if a ledger keeper has to deliver a pass book between the posting of two vouchers.

The Bank finally states that the demand of the employees is not justified, that the recommendation of the *Ad Hoc* Board is unworkable, that no directions as sought for are necessary and that if any such directions are given, there would be dislocation of Bank's work without any corresponding benefit to the workmen. The following points arise for consideration:

- (1) Whether the workmen at the head office at Bombay and the Bombay local branches alone are concerned in the present adjudication and whether the workmen in the Bank's branches at Palanpur, Sholapur, Amritsar and Hyderabad as well as the workmen in the branches at Poona, Poona City, Junagadh, Bhuj, Kozhikode and Coimbatore as also those in the Bank's newly opened branches at Gandhidham in Kutch and New Delhi are not concerned in the present adjudication for the reasons stated in the written statement of the Bank;
- (2) Whether the separation of ledger keeping and pass book writing is a matter of purely domestic management and whether therefore the Bank having regard to the nature of its business and its clientele is the best judge of what is suitable in the Bank's interest and in the interest of the ledger keepers and if so whether the Tribunal cannot interfere with such a function;
- (3) Whether in keeping the two functions of ledger keeping and pass book writing together there is hardship and/or excessive strain and if so whether the two functions should be separated and whether a separate pass book department should be established in the head office and in all or any of the branches of the Bank.
- (4) (a) Even if it should be found that such separation is not in the interest of the Bank or of the ledger keepers whether any and what help or assistance should be given to the ledger keepers in order to relieve them of any hardship or any excessive strain;
- (b) Whether this help or assistance should be restricted only to the head office and the branches at Bombay or whether it should be extended to all or any of the branches of the Bank.

Point No. (1).—As regards the employees in the branches of the Bank of India Ltd., at Palanpur, Sholapur, Amritsar and Hyderabad, it is stated that no demand was ever made on their behalf. As regards the employees in the branches at Poona, Poona City, Junagadh, Bhuj, Khozikode and Coimbatore the Bank does not admit that any demands were made, at any rate, concerning writing of pass books by ledger keepers or that the Federation was authorised to agitate the said demand on their behalf. As regards the new two branches at Gandhidham and New Delhi it is stated that no demand was ever made by or on behalf of the ledger keepers of the said branches for a separate staff for writing pass books. It is however admitted in paragraph 9(e) of the written statement of the Bank, while setting out a short history of the demand, that in December 1951 the Federation of the Bank of India Staff Unions demanded that the recommendation of the *Ad Hoc* Board constituted in Bombay in connection with pass books and statements should be implemented in all the offices of the Bank. No doubt the Federation came into existence only in 1951 but when it did make a demand, that demand must be deemed to have been made on behalf of the Staff Unions since it cannot be denied that the Federation of the Bank of India Staff Unions represents majority of the employees of the Bank of India Ltd. all over India. The demand by the Federation was made long before the Reference and the Reference must therefore be taken to be one relating to the demand made on behalf of the employees not only in the head office and local branch offices in Bombay but also on behalf of the employees in all the branches of the Bank in India. The contention of the Bank that the Bank's workmen in head office at Bombay and Bombay local branches alone are concerned in the present adjudication cannot be accepted. We therefore hold that all the workmen of the Bank of

India whether at the head office at Bombay or Bombay local branches or at the several branches which are specifically mentioned in the written statement of the Bank are concerned in this dispute and the award which we propose to pass herein will relate not only to workmen in the head office at Bombay and Bombay local branches but also to the workmen of all branches of the Bank of India Ltd. all over India.

Points 2, 3, 4(a) and 4(b).—We shall at first proceed to consider the plea of the management that the separation of ledger keeping and pass book writing is a matter of purely domestic management which cannot be interfered with by a Tribunal. We agree that it is within the exclusive competence of the management to decide whether the two functions of ledger keeping and pass book writing could be attended to by the employees in a single department or whether these two functions should be separated and there should be one department for ledger keeping exclusively and a separate department for writing pass books or writing and issuing statements. But it is admitted by the Bank at the end of paragraph 27 of the written statement that the dispute would be a matter of domestic management provided there is no hardship or excessive strain on the workmen. If by keeping the two functions together and asking the ledger keepers to attend to both the duties of ledger keeping and pass book writing there is likely to be hardship or excessive strain, there can be no doubt that the workmen are entitled to be relieved of such hardship or strain and the two functions have to be separated, unless it is found that the hardship or excessive strain on the workmen can be relieved against by any other means. It cannot be denied that whenever there is a question of hardship or excessive strain by reason of imposing an excessive workload on the workmen, Industrial Tribunals are competent to examine and determine the proper workload that could be imposed upon the workmen and thus reduce the burdens, if necessary. The learned advocate for the management has relied upon the decision in Muzaffarpur Electric Supply Co. Ltd. and their workmen case. (1952 II Labour Law Journal P. 804). In this case the demand was to create a new post of head wireman so that a particular wireman who happened to be very capable may be promoted to the grade of a head wireman. Less than a year prior to the Reference there was an agreement between the management and the Union representing the workmen by which the grades and wage structure in the company were revised and at that time no necessity was felt for having a post of a head wireman and since then, the work was going on smoothly without a head wireman. In those circumstances, it was held that the demand of the workmen could not be acceded to. We do not think that the demand in the present case is on all fours with the demand made in the case cited. The demand herein is not to create any new post of pass book writers. The demand is to lighten the burden of the work on ledger keepers which is said to be very onerous and to allocate the work of pass book writing to another set of clerks to be formed into a separate department. Even apart from this, the decision relied upon laid down that assuming that the discretion of the management could be interfered with by a Tribunal a strong case must be made out for the same. The decision therefore concedes that if a strong case could be made out for interfering with the discretion of the management, the Tribunal has the right to interfere with such discretion. While conceding that the management is the best judge of what is suitable in the Bank's interest and in the interest of the ledger keepers we have to hold that the Tribunal could interfere with this managerial function if there is extreme hardship or excessive strain on the workmen by reason of keeping the two functions together which cannot be relieved against otherwise. We are of opinion that it would be within our province to go into the question of alleged hardship and/or excessive strain on the workmen and give appropriate relief in case it is found that such relief should be given.

We therefore proceed to consider the question relating to the alleged hardship and the excessive strain on the ledger keepers by reason of keeping together the duties of ledger keeping and of writing and delivering pass books. It may be stated at the outset that the Bank of India Ltd., Bombay was started in 1906 and that ever since that time till about the year 1946 the ledger keepers were attending to the duties of both ledger keeping and of writing and delivering pass books. According to Shri G. G. Dholakia (W.W. 3) who has been working as a ledger keeper for the last 10 years, grievance in regard to the writing of pass books is as old as the formation of the Bank of India Staff Union in 1945. From this it can be safely inferred that prior to 1945 the work of writing and delivering pass books was being attended to by the ledger keepers and the same was going on smoothly. But, it is to be noted in this connection that during the period prior to 1945 there was no limit to the working hours during which the ledger keepers or other employees were expected to work. It is practically admitted that in almost all Bank offices the clerical staff used to work in those days even as late as 9 or 10 P.M. on some days. The question of limiting the working hours came

into prominence only after the formation of the Bank of India Staff Union when for the first time the clerical staff realised their rights and became emboldened to put forward their grievances. On the New Year's day of 1946 certain demands by the Union on behalf of the staff were pressed before the General Manager of the Bank but nothing came out of this. Though the question of writing of pass books and delivering them was not specially mooted yet on the most pressing and important grievances of the staff, the employees of the Bank of India Ltd., went on a strike in June 1946. On account of the strike the work of the Bank was in a mess as could be seen from the evidence of Shri R. H. Shinkar (E.W. 1), who is Superintendent of Accounts, Bank of India Ltd., Bombay. The Cash Books were not balanced for about two or three months and with a view to bring balancing work up-to-date about 60 to 70 new employees were engaged. About this time the working of writing up-country pass books was separated from the work of writing local pass books and was entrusted to a department called the up-country pass book department. It appears that the services of a number of temporary clerks were requisitioned for the purpose. A separate muster for the up-country pass book section was established however only in about April 1948. Besides writing the up-country pass books, the up-country pass book section is exclusively engaged in preparing statements of current accounts for being delivered to the constituents. It is seen from Ex. 3 that the work of preparing statements had been steadily increasing since 1947. While these statements were only 168 per month in number in 1947, it increased to 475 in 1948, 615 in 1949, 711 in 1950, 891 in 1951, 947 in 1952 and 1023 per month in 1953. The increase is mostly observed in the weekly, fortnightly and monthly statements. Along with the establishment of an upcountry pass book section on a permanent basis the demand for the separation of the work of writing and delivering pass books from the work of the ledger keepers has become insistent and in March 1948 it was pointed out by the Union that the burden of writing pass books was so onerous that the two duties should be separated and the ledger work should be reserved for the senior members of the staff. In December 1948 the Union demanded a separate pass book department to be maintained for writing pass books and delivering them. This demand was formulated before the Sen-Tribunal in 1949-50 but this question was not adjudicated upon. The demand was again pressed in January 1951; that in spite of some negotiations between the Bank Management and the Union officials the request of the Union was not acceded to as the Directors and the General Manager of the Bank thought that ledger keepers were quite capable of doing the pass book writing work also. In April 1951 two resolutions were passed at the general body meeting of the Union to the effect that from the 21st May 1951, the ledger keepers would not shoulder the responsibility of writing and delivering pass books. The Regional Labour Commissioner held conciliation proceedings at the instance of the Bank and as a result thereof the dispute was referred to an *Ad hoc* Board consisting of a representative of the Bank nominated from one of the officers of the Reserve Bank of India, a representative of the Union and a representative of the Regional Labour Commissioner, the term of reference to this Board being "investigation and assessment of the manpower and volume of work in ledger keepers department". The *Ad hoc* Board commenced work on the 31st May 1951, and after holding 20 meetings submitted report on the 3rd July 1951. The conclusions of the Board and the refusal of the Bank to implement their recommendation would be adverted to in due course. For the present however, it is sufficient to state that a scheme for redistribution and re-organization of accounts submitted by the Bank to the Conciliation Officer and conveyed by him to the Union was rejected by the latter and hence the dispute remained unsolved and came to be re-agitated in November 1951. The ledger keepers refused to write pass books and statements and the Bank considering this attitude as a gross breach of duty charge sheeted some of the ledger keepers and reprimanded them. Then followed in December 1951 a list of demands including specifically the question of implementing the recommendations of the *Ad hoc* Board relating to the writing of pass books and statements. As the Bank refused to accede to the demand there was a strike by the employees at the head office and at a number of branches of the Bank from 24th December 1951, which lasted till the 4th February 1952. On the 5th February 1952 the ledger keepers resumed work on the footing that they should write pass books until a final and binding decision was given by the Sastry-Tribunal. This question however was not heard and disposed of by the Sastry Tribunal and hence the dispute has again cropped up and is before us. Though the Bank has taken the stand that the workload of the ledger keepers department at the head office is not in any way burdensome and the question of departing from the existing system at the branches would hardly arise because the work of the ledger keepers department at the branches is considerably lighter than the work at head office, it has been observed by the *Ad hoc* Board that

the "work of ledger keepers is of an exacting nature as they are constantly under pressure both internally and in dealing with the Bank's constituents and consequently periodically a certain amount of relaxation has to be allowed for." These observations have been made by responsible members of the Board who made a careful scrutiny of the various items of work falling to a ledger keeper.

Before proceeding to consider the various duties which the ledger keepers are called upon to attend to in the Bank of India Ltd. we would like to advert briefly to the evidence that has been adduced in regard to the work that is attended to by the ledger keepers in other Banks. The statement of the Union that the ledger keepers are not required to write pass books and/or deliver statements in any other Bank is not correct as could be seen even from Ex. D filed on behalf of the employees. In the Allnabad Bank and the Eastern Bank pass books and statements are written by ledger keepers. In National Bank of India statements are written by register keepers, 2 to 3 pass books per ledger are to be written by ledger keepers. In the written statement of the Bank it is stated that in the Chartered Bank of India, Australia and China, Bombay, the Bank of Baroda Ltd., Bombay, the Mercantile Bank of India Ltd., Bombay, the writing of pass books is done by the ledger keepers. No doubt it is pointed out on behalf of the Union that four of the Banks mentioned in the written statement are Exchange Banks but this would not make any difference. No evidence has been let in on behalf of the Union to show that this averment, in the written statement is false except with regard to the Chartered Bank. The Union has placed before us evidence relating to the work of ledger keepers only in two Banks viz., Imperial Bank of India and the Grindlays Bank. As pointed out by the learned Counsel for the employers this evidence would not be of much help to us to come to any definite conclusion as the duties in these Banks are substantially different from the duties that are performed by the ledger keepers in the Bank of India Ltd. In the Imperial Bank of India there is a separate section for writing pass books and statements. This system was introduced in the Imperial Bank in order to prevent frauds which had taken place in the Bank of Bombay, in whose place the Imperial Bank has come into existence. The system followed in preparing statements in the Imperial Bank is quite different from the system adopted in the Bank of India or in other Banks for writing pass books. In the Imperial Bank statements are prepared directly from the vouchers and after striking the balance it is checked with the balance in the ledger. In the Bank of India however the entries in the pass book are copied from the ledgers. We are convinced that the system followed in the Imperial Bank of India is commendable in that it rules out to a great extent the possibility of frauds, but if for nearly 50 years this system of writing pass books from ledgers adopted in the Bank of India has not given rise to any fraud we do not see any reason why the Bank of India should be prevailed upon to adopt the system that is being followed in the Imperial Bank of India. It is pertinent to state that copying of entries in pass books from ledgers cannot be so onerous as preparing statements from vouchers and checking the balances arrived at in balancing the ledger. It may be that by reason of the system adopted in preparing statements in the Imperial Bank of India it is necessary that a separate section should do the work but the same thing cannot be said regarding the writing of pass books from ledgers. There is also one other difference in regard to the work of ledger keepers in the Imperial Bank of India as compared to the work done by the ledger keepers in the Bank of India. In the Imperial Bank the calling the entries before business hours takes about 30 minutes and this work has to be done by the ledger keepers along with other clerks, in rotation. In the Bank of India however the calling work is done not by ledger keepers but by a different set of employees. Posting of credit vouchers in the ledger in Imperial Bank of India is done only after the amounts are actually realised and the slips duly verified by officers. In Bank of India credit vouchers in respect of cheques on outstation branches and/or banks are posted straightaway before realisation. The ledger-keeper has therefore to be always on the look out to see that such cheques are not drawn against. There will also be much work connected with giving information for enquiries regarding this matter. In the Imperial Bank of India the ledger keepers are not expected to attend to enquiries. As regards balancing, the work is done in the Imperial Bank of India by a set of clerks including ledger keepers. There is again difference in regard to the receipt of vouchers. Whereas in Bank of India vouchers continue to be received even after 4-30 P.M. they are not so received either in the Imperial Bank or in the Grindlays Bank. In the Grindlays Bank the ledger keepers write the statements but some assistance is given to them. The maximum number of vouchers per ledger keeper is 120 per day. The assistance for preparing statements is given every day from 4 P.M. to 5-30 P.M. except on

Saturdays. Vouchers will not be received in the Bank after 4 P.M. and in spite of the help given the statements are not being kept up-to-date. There are two important points of difference between the system obtaining in the Grindlays Bank and that obtaining in the Bank of India. There is no calling work in the Grindlays Bank as the entries are checked with the vouchers during office hours immediately they are posted in the ledger. In the Grindlays Bank vouchers have first to be posted in a Cash Book and then entries are made in the ledger. This is no doubt additional work for ledger keepers in the Grindlays Bank though it will not involve double the work as is contended for by the learned advocate for the Bank. Even as regards balancing there appears to be difference between the systems adopted in the two Banks. It is also pointed out that while in the case of Bank of India only 3,000 pass books are to be written and sent even though there are 17,000 and odd current accounts, in the Grindlays Bank the statements are to be sent to each and every constituent whether demanded or not. It is also seen that the evidence adduced, does not disclose the duration of time required for each of the duties which is expected to be attended to by ledger keepers in this Bank. Taking all these circumstances into consideration we agree with the learned advocate for the Bank that the evidence relating to the work of ledger keepers in the Imperial Bank of India and the Grindlays Bank adduced before us is not very much helpful in assessing the volume of work which is expected to be turned out by the ledger keepers in the Bank of India.

While the evidence adduced on behalf of the Union has been found to be not helpful we would have expected the Bank to adduce evidence regarding the work of ledger keepers in the six Banks mentioned in the written statement by them in which the two functions are said to be performed by one and the same clerk. But we find that the management has not adduced any such evidence. So far as the National Bank of India Ltd., Bombay, is concerned it is seen from Ex. D. which is prepared from the information got from the Union that all the statements and pass books are not prepared by the ledger keepers but that work is done only partially by them. Leaving out the case of Allahabad Bank which is a small Bank having only 1630 current accounts, there are four other Banks which are mentioned in the written statement of the management in which the Pass Book writing is said to be done by the ledger keepers. Ex. G which is the reply received from the General Secretary of the Chartered Bank of India, Australia and China, Bombay shows that there are no pass book in the Bank and the statements are written by separate staff during office hours. The learned advocate for the Bank states that Ex. G has not been properly proved. But it was open to him to have adduced evidence in support of the statement that in the Chartered Bank of India, Australia and China, Bombay, the preparation of statements is done by ledger keepers. Similarly, evidence could have been adduced to contradict the statement of the Union regarding the system prevailing in the National Bank of India Ltd., and some evidence could have been adduced as regards the system of working in the other three Banks viz., Bank of Baroda, Mercantile Bank of India and the Eastern Bank. Even in regard to the evidence that has been adduced as regards the ledger keepers in the Imperial Bank, it was at one time represented that some evidence would be adduced to show that the statement made on behalf of the Union is incorrect but no such evidence has been adduced. We are therefore left in this unfortunate position that there is absolute dearth of evidence regarding the volume of work that is being turned out by the ledger keepers in the Banks mentioned by the management. It may be that the duties of ledger keepers in the different Banks are not identical and any comparison of the work turned out by the ledger keepers in these individual Banks might not be very much helpful. But all the same no attempt has been made to show that in this Bank the duties are so very different that no useful purpose will be served by embarking upon an enquiry as regards the duties of the ledger keepers in the other Banks referred to.

We are therefore obliged to give our decision on the question referred to us only on the available material viz., the report of the *Ad hoc* Board and the evidence adduced on either side as regards actual working of ledger keepers in the Bank of India Ltd.

Dealing first with the *Ad hoc* Board's report we have no doubt that the observations made by the Board are entitled to much weight. This Board was constituted as a result of an agreement between the management and the Bank and the Union on the 24th May 1951. This Board was required to investigate and assess the man-power and the volume of work of ledger keepers in the Bank

of India's head office and at its branches. The report is an annexure to the written statement of the Bank. The three members of the Board are:

- (1) Mr. L. T. Moras of the Reserve Bank of India,
- (2) Mr. G. G. Dholakia, representative of the staff Union, Bombay, and
- (3) Mr. N. G. Jadhav, representative from the Regional Labour Commissioner.

Though the learned advocate for the Bank strongly urges that Mr. L. T. Moras cannot be said to be the representative of the Bank of India Ltd. there can be no doubt that he was a member of the Board representing the interest of the Bank of India Ltd. The Board met for the first time on the 31st May 1951 and thereafter held 20 meetings. They also sent a circular letter which is marked as annexure A to the report to the six Banks viz. (1) The Lloyds Bank, (2) The Imperial Bank of India, (3) The Bank of Baroda, (4) The Mercantile Bank of India, (5) The Chartered Bank of India, Australia and China, and (6) The Central Bank of India Ltd. asking them to furnish certain particulars. The Chartered Bank of India, Australia and China and the Central Bank of India, Bombay alone seem to have sent the information sought for. Reply given by the Chartered Bank of India, Australia and China shows that writing up and despatching of daily and weekly statements is one of the duties of the ledger keepers but we do not think that this relates to the preparation of statements to be given to the constituents. The reply of the Central Bank of India shows that barring the balancing of ledgers other duties such as calling out the ledgers, statement writing, preparation of sheets, writing of pass books, etc. referred to in the circular letter are not generally handled by ledger keepers. The *Ad hoc* Board in addition to this material had gathered information on personal observation of the work done by ledger keepers on 31 and 32 ledgers in the Bank of India and also on the work done on the ledgers Nos. 53 to 60. The Bank's branches at Kalvadebi, Bullion Exchange and Malabar Hills were visited and the work done by some of the ledger keepers of these branches was examined. In the Annexure B to the report are set out the duties of the ledger keepers which are 19 in number. The Union has given a list of the duties as detailed in Ex. B in some detail. These duties are 29 in number. In Ex. C a complete picture of the ledger keeper's work in a day during office hours is given. It is however seen that the most important duties which are attended to by the ledger keepers in the Bank of India were taken into account and considered by the Board. On reading the report of the *Ad hoc* Board as a whole we do not think that we can agree with the contention of the learned advocate for the Bank that the Board has given a definite finding that the manpower in the Bank for ledger keeping work is sufficient. In fact no such finding could have been given as there does not seem to have been sufficient data to come to a conclusion as to the actual time required on each day for writing the pass books and keeping them up to date. The *Ad hoc* Board state that after careful scrutiny of various items of work of the ledger keepers they had come to certain conclusions on the basis of 150 vouchers per ledger keeper. The conclusions are:

- (1) That on an average 3 hours 20 minutes are necessary to post the 150 vouchers;
- (2) That other miscellaneous items of duties would require in all 1 hour and 50 minutes; and
- (3) Consequently a ledger keeper should have at his disposal 1 hour and 20 minutes for writing up the pass books.

It is significant that the *Ad hoc* Board has not stated that 1 hour 20 minutes would be sufficient to write the pass books and keep them without arrears. Allowing 1 hour and 20 minutes for writing pass books they state that the time occupied would be 6 hours and 30 minutes. It is no doubt true that hours of working would be $6\frac{1}{2}$ hours on ordinary working days but on Saturday the working hours are only $3\frac{1}{2}$ hours. If therefore $36\frac{1}{2}$ hours are taken to be the time at the disposal of the ledger keepers in a week which is also the time fixed as the working hours per week in the Sastry-award it is not known how the ledger keepers would have $6\frac{1}{2}$ hours every day at their disposal. If they have therefore $6\frac{1}{2}$ hours only on 5 days in the week and they have only $3\frac{1}{2}$ hours or 4 hours on Saturday, the ledger keeper cannot have 1 hour 20 minutes at his disposal on each day for writing pass books. Having stated that a ledger keeper will have at his disposal 1 hour and 20 minutes, the *Ad hoc* Board proceeds to state that in three cases assistance would have to be given to them. They refer to heavy days such as Mondays:

when the ledger keepers got 200 or more vouchers when he will not be able to spare as much of his time for writing pass books as on normal days. They also refer to the balancing days when periodical ledger balancing would take about 2 hours and 30 minutes. They refer to the writing of pass books which cover a large number of ledger folios as a result of the pass books not having been written up for a long time or where a ledger keeper is required to copy out on demand two or more pass books which run two or more ledger folios. In all these cases it is suggested that some help would be given. It is unfortunate that the Board has not suggested the amount of help that should be given. The learned advocate for the Bank drew our attention to Exs. L and M and stated that the writing of all big pass books more than four folios of ledger, writing of all old pass books and writing of all urgent pass books are duties of the up-country pass book department and that therefore really no help need be given since it is stated that all the observations made by the Board are only in regard to urgent pass books. We do not agree that the assistance mentioned by the Board is only with regard to urgent pass books or pass books which are to be copied out on demand. It is pointed out that if the Board was of opinion that definite weekly help should be given they would have mentioned it. But Shri Dholakia in his evidence states that since they thought that weekly assistance which was being given and which was discontinued would not be sufficient, there is no mention of any definite help. Not being content with making these observations the *Ad hoc* Board went on to suggest an alternative proposal *viz.* reducing the number of ledger keepers by say 9 and giving the work of writing and delivering pass books to persons other than ledger keepers. The suggestion was that the strength of the mufassil pass book writing section should be increased and that section should be asked to write all pass books. They also suggested a safeguard *viz.*, that the work that will fall to them as a result of the change should be taken at a norm and if and when it increases or decreases say by 10 vouchers new ledgers should be opened or the number of ledgers decreased as the case may be. This recommendation would not have been made had the Board been of opinion that the man-power was quite adequate to the volume of work of the ledger keepers in the Bank. In our opinion the Board appears to have made a compromise regarding the interest of the Bank on the one hand and of the workmen on the other having been anxious to please both sides. The Bank however failed to implement the recommendation as it was beyond the terms of reference and the Board had no jurisdiction to make such recommendation. Leaving out therefore this alternative recommendation from our consideration we find that the Board merely came to the conclusion that there was one hour 20 minutes at the disposal of the ledger keepers and that with some help given on the occasions mentioned they might be in a position to complete the work. They however, took care to state that certain amount of relaxation has to be allowed in view of the exacting nature of work done by the ledger keepers.

In this state of the report we are afraid that we cannot obtain much help even from the report and we have to fall back upon what evidence is available before us as regards the duties of ledger keepers in this Bank. This evidence consists of the evidence of Shri Dholakia who was one of the members of the *Ad hoc* Board and of Shri Shinkar (EW-1), who is at present Superintendent of Accounts in the Bank of India. He was a ledger keeper for about two or three months in this Bank but he had also experience as ledger keeper before he joined this Bank. He may therefore be expected to have more intimate knowledge of the ledger keeping but he is still in the employ of the Bank and his evidence cannot carry much weight. We cannot accept his evidence that the ledger keepers can attend to the work of writing pass books without any assistance since that evidence is inconsistent with the observation made by the *Ad hoc* Board, which is entitled to much more weight than his. Shri G. G. Dholakia has been ledger keeper for the last 10 years and he has given evidence about the onerous nature of the work of ledger keeper in this Bank. There are two or three features which require to be dealt with at some length. In this Bank there is no limit of time up to which vouchers could be received whereas in other Banks vouchers are not received after 4 p.m. The ledger keeper would be busy attending to payment cheques, enquiries from clients, internal enquiries and clearing cheques etc. between 10-30 A.M. to 2-30 P.M. every day. Though the lunch hour is one hour, it is often curtailed due to heavy pressure of work. After return from lunch the vouchers received already will have to be posted and as vouchers continue to be received there may not be sufficient time for writing pass books. It is conceded that pass books cannot be written prior to 10-30 A.M. A suggestion is made that posting of vouchers is not a continuous act and that therefore in the interval between posting one voucher and that of another the writing of pass books can be attended to but then there will be en-

quiries to be attended to and information given. This continuous disturbance in the work of a ledger keeper which is present in the case of this Bank does not seem to be present in the case of ledger keepers who work in other Banks. Shri Dholakia admits that whenever ledger keepers find time after attending other duties they attend to the work of writing pass books. In the Bank of India the credits are entered in the ledgers regarding cheques on outstation banks or branches and therefore the ledger keepers have to be constantly on the look out to see that cheques are not drawn against until they are realised. This is not the case in other Banks. One other feature is that there will be enquiries made to ledger keepers directly both internally and from constituents and they will have to be answered. Further in the Bank of India the doors are not closed by a certain hour as in other banks. It is clear from this evidence that in view of the multifarious duties which the ledger keeper has to attend to and the disturbance that will be caused to him by reason of his being obliged to give information for enquiries he will have very little time to attend to the work of writing pass books except on days when there are fewer vouchers to be posted. There will be arrears due to the fact that on Mondays and on balancing days there will be little or no time for attending to the work of writing pass books. It is pointed out on behalf of the Bank that on account of the re-organisation and equal distribution of work under the scheme of the Bank newly introduced ample time will be found for writing the pass books. It is also pointed out that as Saturday clearing has been introduced the work on Mondays will not be heavy and that therefore there will be time at the disposal of the ledger keepers. It is also further pointed out that the number of vouchers has decreased in recent years and that therefore ledger keepers ought not to find it difficult to attend to the work of writing pass books. Taking all these circumstances into consideration we feel that it will not be impossible for the ledger keepers to attend to the work of pass-book writing also if the help that was being given to them up to December 1950 is renewed and adequate relief is given. In these circumstances we do not think that there is any immediate necessity to direct that a separate department should be opened for writing pass books. We, however, feel that in view of the peculiar features in this Bank regarding the working of ledger keepers already referred to some substantial help should be given to the ledger keepers if they have to keep the work of pass book writing up to date and without arrears.

When dealing with this question of help we would like to advert to the fact that till December 1950 the up-country pass book section was asked to help the ledger keepers in writing the pass books one day in the week. Though at one time there were more than 9 persons employed in the up-country pass book section, from April 1948 there were 9 persons working in this section and they were asked to give weekly help and also help for one month prior to each of the half yearly closing of accounts. This help was discontinued from December 1950. The reason that is sought to be given for stopping the help are two-fold: (1) There has been substantial reduction in the number of vouchers to be posted in the ledgers; (2) the work in the up-country section increased considerably by reason of the increase of statements prepared and given to the constituents. So far as the number of vouchers is concerned it is seen from the written statement of the Bank that while the average number of vouchers per day per ledger keeper in 1949 was 140, it increased to 142 in 1950 and to 144 in 1951. So far as statements are concerned it is seen from Ex. 3 that the increase from 1949 to 1950 was less than 100. No doubt these statements were to be given in substitution of pass books and therefore while there was a slight increase in the statements there was a proportionate decrease in the pass books. But nevertheless the increase was very insignificant that it could not be said that this was the reason for discontinuing the help given. On the other hand we are of opinion that the Bank refused to give the help as they wanted to utilise the services of three of the clerks in the up-country pass book section for other purposes in view of the fact that their expenditure increased by reason of the directions given in the Sen Award. Whatever might have been the reasons which operated on the minds of the Bank to discontinue the help it must be stated that the Bank was not justified in doing so. Though the number of vouchers has decreased in recent times it is admitted that since 1950 the vouchers have become a little complex by reason of 3 or 4 items being clubbed together and included in one voucher. It may be that these vouchers form only 4 per cent. of the total number of vouchers but all the same more time will be required to post these vouchers than ordinary vouchers. Taken all those circumstances into consideration we are of the opinion that the help which was unjustifiably refused and discontinued in December 1950 should be given to the ledger keepers so that may have a little relaxation which they are in absolute need of in view of the very onerous duties which they are discharging in the midst of so much distraction. We therefore find that regular help should be given every week by sending six persons from the up-country

pass book section to help the ledger keepers on one day in the week preferably on Mondays or on days preceded by two holidays.

The next question to be considered is whether this help should be given only at the head office or at the branches also. The *Ad hoc* Committee in their report have stated that there are variations from branch to branch but they are not of material importance and would not affect their proposal. They also observed that the nature of duties is also not strictly uniform in all the branches and proceeded to state as follows:—

"There are for instance a few additional items of work allotted to ledger keepers, say, issue of tokens which would at first sight appear as an added burden. There are however, some compensation also in the way in which the work flows at these branches, for instance, the vouchers and other items come in large lots, and there is hardly any time lost in the vouchers having to pass from department to department, as it happens at the Head Office.

In view of these observations we feel that this help should be rendered only at important local branches such as Kalbadevi Bullion Exchange and up-country branches at Ahmedabad, Calcutta and Madras and in no other branches.

There will be an award in these terms. There will be no separation of the ledger keeping section and the pass book writing section. The assistance that has been suggested by us will be commenced to be given within a fortnight after the award becomes operative.

CALCUTTA;

The 30th March, 1954.

(Sd.) BHAKTAVATSALU, *Chairman*.
31st March 1954.

(Sd.) G. PALIT, *Member*.
31st March 1954.

(Sd.) R. M. KOPPIKAR, *Member*.
31st March 1954.

[No. LR-100(67).]

New Delhi, the 10th April 1954

S.R.O. 1257.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in a dispute between the Imperial Bank of India, Limited, Calcutta, and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

PRESENT:—Shri C. Bhaktavatsalu Naidu, B.A., B.L., *Chairman*.

REFERENCE No. 12 OF 1953

BETWEEN

The Imperial Bank of India, Calcutta

AND

Their workmen

(**Re:** Shri Chhagan Lal Mundra and 18 others represented by the Imperial Bank of India, Indian Staff Association, Calcutta)

APPEARANCES.—Shri Niren De and Shri B. K. Chowdhury, Counsel, for the Imperial Bank of India, Indian Staff Association.

Shri S. K. Mullick (Jr.) of Messrs. Sandersons & Morgans, Solicitors, for the Imperial Bank of India.

AWARD

By order No. LR.100(89), dated 23rd/24th September 1953, the industrial dispute existing between the employers in relation to the Imperial Bank of India and the workmen specified in column 2 of the Schedule annexed to the said order was—

referred to me for adjudication. The names of the workmen 26 in number have been set out in column 2 and the nature of dispute with reference to each of the worker has been set out in column 3 of the said Schedule. With reference to workmen Nos. 1, 3, 5, 6, 10, 15, 17, 19, 21 and 22 the nature of dispute is said to be one regarding dismissal from service of the workmen. The dispute in regard to workman No. 8 is said to be with reference to transfer from one station to another. In the cases of workmen Nos. 4, 7, 9, 11, 12, 13 and 16 the dispute relates to either stoppage of increment or demotion in grade or delay in making promotion or reduction in pay. With regard to workman No. 2 the dispute is said to be one of discharge from service and with regard to workmen Nos. 18, 24 and 26 the dispute is said to be one of termination from service. The case relating to No. 20 is said to be one of victimization while the case relating to workman No. 25 is said to be payment of compensation. The case of No. 23 is a wrongful dismissal and in the case of workman No. 14 the dispute was originally stated to be one of wrongful suspension but later as per order No. LR.100(98), dated 6th February, 1954 the dispute is said to be one of dismissal from service. Of these, workman No. 3, Shri Rama Kant Jha died subsequent to the reference and No. 8, Shri Swal Das Agarwal withdrew his claim by a letter dated Nil which was received on 18th November, 1953. Of the remaining cases the enquiry relating to workmen Nos. 1, Shri Chhagan Lal Mundra, 2, Shri Nabin Chandra Tewary, 4, Shri Anant Prasad, 5, Shri N. C. Chowdhury, 6, Shri Surendra Prasad Mishra, 9, Shri Daya Ram Mishra, 11, Shri Biren Banerjee, 12, Shri Indra Prakash Sangal, 13, Shri H. L. Tandon, 16, Shri B. N. Tewari, 20, Shri S. D. Misra, 21, Shri Shyam Kishore Shukla, 22, Shri Ram Saran Shukla, 23, Shri Sardar Kartar Singh Bindra, 24, Shri Ramji Das Gupta, 25, Shri C. D. Saraf and 26, Shri Prakash Chand Chopra have been completed. As it was found that the enquiry relating to the other seven workmen viz. Workmen Nos. 7, Shri Nand Kishore Mishra, 10 Shri Sneo Prasad Gupta, 14, Shri D. S. Bhatt, 15, Shri Thakur Ganga Prasad, 17, Shri Rama Kant Agnihotri, 18, Shri Brijesh Narain Tewari and 19, Shri Ram Sewak will take some more time for being completed their cases have been separated and included in Reference No. 12(a) of 1953 with a view to writing an award in regard to cases in which the enquiry has been completed. This award therefore relates only to workmen Nos. 1, 2, 4, 5, 6, 9, 11, 12, 13, 16, 20, 21, 22, 23, 24, 25 and 26. The award with reference to remaining 7 cases included in Reference No. 12(a) of 1953 will be submitted to Government as soon as the enquiry relating to them is completed.

Notices having been issued to the parties on the 12th October 1953 the statements of claim were filed by the Imperial Bank of India Indian Staff Association on behalf of 24 workmen i.e. with the exception of workman No. 8 and workman No. 15. Workman No. 15 Thakur Ganga Prasad filed a statement of claim in person. The Employers filed a statement separately in respect of each of the workmen except Nos. 3 and 8. At the enquiry the employers were represented by Shri S. K. Mullick of Messrs. Sandersons & Morgans, Solicitors, for the Imperial Bank of India and the workers concerned in this reference were represented by Shri Niren De and Shri B. K. Chowdhury, Counsel.

I shall now proceed to consider the cases of 17 workmen referred to above in the serial order in which they are mentioned in the Order of Reference.

1. *Chhagan Lal Mundra* (Sl. No. 1).—Shri C. L. Mundra was employed as a Podder in the Jamshedpur Branch of the Bank. By a letter dated 31st July, 1947 the Bank terminated the employment of the said employee with effect from 1st August, 1947. The Union contends that as no reason whatsoever was assigned for the termination of the employment, the action of the Bank was arbitrary and as no charge was framed and no complaint was made and as the decision of the Bank was arrived at without taking into consideration any charges or complaints the employee is entitled to be reinstated and to be placed in the same position in which he was on the footing that his employment never terminated and he should be paid all moneys found due to him on the above basis.

The Bank in their statement have set out certain legal defences viz., (1) The order of reference is illegal and *ultra vires* as Shri Chhagan Lal Mundra was not dismissed from service and he was not a workman and as such no industrial dispute arose; (2) The dispute, if any, is an individual dispute and hence this Tribunal is not competent to adjudicate thereon; (3) The dispute is belated and/or time barred; (4) The Indian Staff Association is not competent to file any statement before this Tribunal on behalf of the employee.

On the merits the Bank contends that the termination of employment was not wrongful or arbitrary and that the Bank adopted a procedure which was then existing for terminating the employment of the employees. It is also stated that

the reason for termination was known to Shri Mundra and his explanation was duly considered by the Bank and he was found guilty of gross negligence which resulted in the loss of currency notes to the value of Rs. 10,000 which was kept in his charge for testing. It is also stated that Shri Mundra must be employed or could have obtained employment elsewhere and he is not therefore entitled to any salary, dearness allowance, etc.

The legal objections raised in the written statement are common to the cases of all the employees and I think it is sufficient to deal with them in the case of this employee and the findings will be equally applicable to all the cases covered by the award. There is absolutely no substance in the legal objections. It has now been well established that there can be an industrial dispute even in regard to a dismissed workman and that even individual dispute can be adjudicated upon. It cannot be said that the dispute is belated or time barred as it was agitated before the Sen-Tribunal and an award was passed. The terms of the award were however not implemented as the matter was taken up to the Supreme Court by the Bank and it was held that the award was void on account of some technical grounds. Subsequently, the matter was referred to the Sastry-Tribunal but there was no adjudication of this dispute by the said Tribunal. The matter has again been referred to me for adjudication and hence there can be no bar of limitation. The Indian Staff Association represent the employees of the Bank and are therefore entitled to press the case of the employees before this Tribunal especially when the employee authorised the Association to appear and conduct the enquiry on his behalf. The technical objections are therefore over-ruled in respect of all cases and each case will be decided on its own merits.

Then turning to the merits of the case of this particular employee, the negligence alleged against him is with reference to an incident which took place on the 23rd July, 1946. He and Chandrika Prosad Singh were the two Podders who were in the shroffing room and they were each given three bundles, each bundle containing ten-rupee notes of the value of Rs. 10,000 for testing. Chandrika Prosad Singh had counted his bundles and handed them over to the receiving cashier and it is stated that Chhagan Lal Mundra left the room with the bundles of the notes lying on the floor of the room without handing over charge of the notes to either the head cashier or to any other cashier but it is seen from the correspondence Exs. 85 to 99 filed on behalf of the Bank that at the time when Shri Mundra left the room under orders of the head cashier for collection of money from Bogra City Bank, Chandrika Prosad Singh was in the shroffing room and as soon as Chhagan Lal Mundra returned to the room it was found that the bundle was missing. The shroffing room is an enclosure where money testers sit and count money and the door leading to the room is just in front of the head cashier's seat. It is seen from the report of the Agent to the Secretary and Treasurer of the Bank that there is no possibility for any outsider to enter the room without attracting the notice of the head cashier. The head cashier did not suspect Chhagan Lal Mundra but thought that the theft might have been committed by some one in the department taking advantage of Shri Mundra's carelessness. The sum of Rs. 10,000 has been recouped by the head cashier who in his turn has taken promissory notes from the cashiers working under him. The head cashier has not withdrawn the guarantee for Chhagan Lal Mundra and did not recommend that his services should be terminated. It is fairly well admitted that the Bank always looks to the head cashier for reimbursing of the moneys lost and that trouble arises only where the head cashier refuses to stand guarantee for the cashier on the ground that he had lost confidence in him. According to Shri Mundra the practice prevailing in the office was that if any one of the podders remains in the shroffing room when the other podder goes out on business the podder remaining in the room takes care of the notes left behind. It is seen from the letters written by the Deputy Secretary to the Agent and also the letter of the Secretary to the Local Board that the procedure adopted in regard to the examination of remittances was defective and far from satisfactory and that some directions were given in regard to the same. In the letter of the Deputy Secretary to the Agent it is observed that the loss was mainly caused by the head cashier's lack of appreciation of his responsibility and the defective procedure adopted by him. It is no doubt true that Shri Mundra was negligent in not having drawn the attention of the head cashier or Chandrika Prosad Singh about the money lying on the table when he left but Shri Mundra says that he trusted his co-worker and as the room concerned was not approachable by strangers it did not occur to him that he should hand over charge of the notes to any other cashier. Chandrika Prosad stated that he shut the doors of the room when he left but he did not lock it because it was not the practice to do so. Since it is clear that Chandrika Prosad Singh was in the shroffing room when Shri Mundra left, it is just possible that Shri Mundra

thought no trouble would arise and it cannot be said that Shri Mundra's responsibility was very much more than that of Shri Chandrika Prosad Singh. At any rate the negligence of Shri Mundra should not have been meted out such a severe punishment as dismissal especially when the head cashier was willing to continue guarantee for him. I feel this is a fit case in which Shri Chhagan Lal Mundra should be reinstated in service but in view of the long time that has elapsed since his dismissal I would order that he should be paid his pay and allowances only for a period of six months preceding his reinstatement.

2. *Nabin Chandra Tewary* (Sl. No. 2).—Shri N. C. Tewary was appointed as a clerk in the Gaya Branch of the Bank on 16th February, 1940 and was confirmed on 15th October, 1942. He was suspended on 24th October, 1948 and his services were terminated on 1st January, 1949 after payment of one month's salary in lieu of notice. The case of the Union is that the termination of employment was arbitrary as no charge was framed and no enquiry was held. The Bank's case however has been that he was involved in the removal from the ledgers of 1942-43 and 1943-44 of the folios relating to Rohtas Industries Ltd. (No. 2). Copies of these folios had been called for from the Bank by the Income Tax Investigation Commission and the constituent was interested in seeing that these copies were not furnished. Shri Tewary was asked to put up the necessary ledgers for giving copies and he reported that the necessary folios were missing. The matter was reported to the police but they made a report to the effect that there was no direct evidence to put the said employee on trial and suggested departmental action against him. The correspondence relating to this matter has been marked as Exs. 105 to 121. From this correspondence it is seen that Shri Tewary and two other clerks were approached for the removal of the ledger folios by being promised illegal gratification to the extent of Rs. 400 to Rs. 500. An explanation was called for from Shri Tewary and he admitted that a man of Rohtas concern had come to him and requested him to give a statement of account and that Shri Tewary informed him that unless he could give him the folio or head of the account it would not be possible for him to settle the statement. He also states that the man of Rohtas Industries promised to return on the following Sunday and that he did come to the office accordingly. There are also statements of Brij Behari Singh and K. L. Budhia, head cashier, which supports the case that Shri Tewary was implicated in the affair. The point urged on behalf of Shri Tewary is that in the order of dismissal no reasons were assigned and no opportunity was given to him for being heard but it is seen that an explanation was called for and an enquiry was held. Shri Tewary must be fully aware of the charges against him and the Bank followed the procedure contained in its Book of Instructions under which a full report to the Local Board was to be accompanied by the employee's explanation. On examining the report and considering the evidence that was available the Bank came to the conclusion that Shri Tewary was thoroughly unreliable and it would not be in the interest of the Bank to continue him in service. I do not think it could be said in the circumstances that the termination of the services of Shri Tewary was arbitrary or unjustified. His is not a case of victimization and I do not think that he deserves reinstatement or compensation. His claim is therefore disallowed.

3. *Anant Prosad* (Sl. No. 4).—He was appointed as a clerk in Patna Branch on 10th September, 1943 and was confirmed on 10th March, 1944. The complaint made on his behalf is that annual increment for the year 1949 was not granted to him and the relief sought is that arrears should be paid to him with retrospective effect from 1949 due to increase in salary. He was a Junior Grade Clerk in the scale of Rs. 70-4-126—E.B.—130-5-175 under the Gupta's award. In December 1948 he was getting a salary of Rs. 78 p.m. and it is contended that in the usual course he ought to have been granted the next increment without reference to the quality of his work. The Bank's case is that when the question of granting increment for the year 1948 came up for consideration, the Patna Agent reported that the work of the employee was poor and that he was unintelligent and that he was not at all capable but that in spite of all these he was given increment for the year 1948 and warned that his next increment will be withheld unless he showed material improvement in his work. As he did not improve in his work another warning was given and it is therefore stated that the Bank was justified in stopping the increment. It is no doubt true that before an employee is punished by stoppage of an increment he should be given an opportunity to explain the circumstances alleged against him. In this case however it is seen that the work of the employee was found unsatisfactory and he was given warning on no less than three occasions. Shri Anant Prosad must have been aware of the fact that his work was found unsatisfactory. The fact that one increment was granted in spite of unsatisfactory work in 1947 shows the *bona fides* of the Bank and as the employee did not improve in spite of two further

warnings the Bank was justified in stopping the increment. I do not think this is a case in which the Tribunal could interfere with the order of the management. The claim is therefore disallowed.

4. *N. C. Chowdhury (Sl. No. 5):*

5. *Surendra Prasad Mishra (Sl. No. 6):*

Shri N. C. Chowdhury was a Teller in the Monghyr branch and he is said to have worked as a clerk till the termination of service. He was appointed on 2nd January, 1946 and confirmed on 2nd July, 1946. His services were terminated on 24th October, 1951. The case of the Union is that the letter purporting to terminate the employment did not assign any reason whatsoever, that no charge was framed and no enquiry was held and therefore the termination of employment was arbitrary.

Shri S. P. Misra was also a Teller in the Monghyr branch and he is said to have worked as a clerk till termination of service. He was appointed on 18th November, 1942 and confirmed on 18th November, 1943. His services were terminated on 24th October, 1951. The case of the Union with reference to this employee is the same as in the case of Shri N. C. Chowdhury.

The cases of these two employees are common as both relate to shortage in non-issuable notes and in both cases the head cashier refused to take responsibility for them. It is the practice in the cash department for a cashier at the end of the day's work to put in bundles each containing issuable and non-issuable notes of the value of Rs. 100 with a slip attached to each bundle showing the name of the cashier who dealt with the bundles. On receipt of the notes the head cashier counts them and keeps them in the strong room which is kept under lock and key by the head cashier and the Accountant and the non-issuable notes are in course of time transmitted to the Reserve Bank for action. The non-issuable notes in the Monghyr branch were sent to the Reserve Bank at Kanpur. Formerly there was a rule to the effect that a person should accompany the remittance so that the notes may be counted in his presence at Kanpur but since 1944 this rule seems to have been discontinued and there were complaints of various shortages after counting in the Reserve Bank office, Kanpur. The counting was done by the Podder of the Reserve Bank in the presence of the Podder of the local Imperial Bank of India branch. There were previously complaints of shortages but since they were small the cashiers were compensating the head cashier who in his turn was making good the shortages to the Bank. On this particular occasion when the bundles were checked at Kanpur and counting was made it was found that there was a shortage of Rs. 1,116 in non-issuable notes in the bundles signed for and vouched by Shri N. C. Chowdhury and there was a shortage of Rs. 997 in the bundles of non-issuable notes signed for and vouched by Shri S. P. Misra. The shortage having been in respect of very large sum the cashiers seem to have refused to pay the head cashier the deficient amounts on the ground that the Bank authorities should have rectified the system of counting at the Reserve Bank. Their case was that when they made over the bundles to the head cashier, who was to receive them after duly verifying them, their responsibility ceased. The two cashiers were given an opportunity to resign from the Bank's service but as they refused to do so the Bank terminated their services after paying them one month's salary in lieu of notice as the head cashier stated that it is impossible for him to accept responsibility for them.

It is contended on behalf of the Bank that according to the practice prevailing in the Bank, the head cashier picks up at random from the bundles of small denomination notes a few bundles and has them counted only but not examined by clip system and on that if no shortage is found therein the whole of the bundles of notes with the podder's slip attached are sent to the strong room and if however any shortage is detected in the bundle while counting, by clip system, the cashier or podder concerned is asked to put the bundle in order. So far as bundles containing notes of denomination of over Rs. 10 are concerned the head cashier counts all of them before sending them to strong room. It is stated that the object of fixing the podder's slip and keeping the said slips fixed on the bundles of notes of small denominations is to trace the person responsible for preparation of the bundle in the event of any shortage. It is pointed out that having regard to the fact that it is not possible for the head cashier to count and examine within 15 minutes or half an hour's time at his disposal the whole of the bundles of notes of small denomination prepared by all the branch cashiers and podders throughout the whole day, this practice is followed so that the podders' responsibility might continue until detailed examination and counting is done of the non-issuable notes by the Reserve Bank of India in the presence of a representative of the Bank. It is therefore stated that these two tellers or cashiers should have reimbursed the

head cashier the loss due to the shortage and since they failed to do so the head cashier refused to accept the responsibility for them and hence the Bank had no other alternative but to terminate their services.

The cases of these two cashiers were enquired into by the Sen-Tribunal and since it was not possible to fix the responsibility on specific individuals the two cashiers were directed to be reinstated and were as a matter of fact reinstated. Since the head cashier however would not accept responsibility for them they could not be retained in the Cash Department but were required to do miscellaneous duties including clerical work. They continued to work for over a year and it is only when the Divetia Tribunal ceased to function that the Bank terminated the services of these two employees.

The correspondence relating to these two employees has been produced by both sides and marked as Exs. F to F(11) and Exs. 1 to 29. The correspondence shows that there were allegations made against branch head cashier and his work was also directed to be watched and a monthly report sent for the next six months. His son Babu Raghu Nandan Mishra was also employed in the same Monghyr branch and it was thought necessary to transfer him. After the bundles reached the hands of the head cashier they would be in the joint custody of the head cashier and the Accountant. It is no doubt true that whenever bundles of notes are taken out from the strong room the cashiers happen to be present but it is not possible for the cashiers to be present on other occasions. Hence the possibility of the bundles being tampered with after they reached the strong room cannot be completely ruled out. Further the practice of sending a Podder from the Monghyr branch had been discontinued and though the Reserve Bank suggested some time later that a person should be deputed from the Monghyr branch at the expense of the head cashier, the latter refused to send any such representative and the result was that the counting was done only in the presence of the Podder in the local branch in Kanpur. It is significant that before the shortages were found the branch cash balance, the currency chest etc. were verified during an inspection and audit and no shortages were reported as could be seen from Ex. 13. In view of this circumstance it is not possible to state that Shri N. C. Chowdhury and Shri S. P. Misra were exclusively responsible for the shortages. The head cashier refused to accept responsibility for them because they refused to make good the shortages. The fact that on prior occasions the shortages were made good is not a ground for holding that for all shortages they must be held responsible. In this view they ought not to have been penalised by their services being dispensed with.

There is also another aspect of the matter to be considered. The termination of employment was on 24th October 1951. Before that date for about a year these two persons were working in the Bank doing duties of a clerk. It is no doubt stated that by their training and qualifications they were not capable of doing any work other than as a member of the cash department staff but there is absolutely nothing to show that their work in the clerical department was unsatisfactory. No explanations were ever called for from them for defective work, no charges were framed against them and no finding were arrived at as regards their fitness to do clerical work. No reason whatsoever was given in the order terminating their services and hence the order has to be characterised as arbitrary and opposed to the principles of natural justice. The two cashiers are therefore entitled to be reinstated in service. They should be reinstated in the cash department and if there is any difficulty raised by the head cashier they should be reinstated in the clerical grade. The reinstatement should be made within a month after this award becomes operative and they should be paid compensation being salary and dearness allowance for six months preceding the date of reinstatement.

6. *Daya Ram Mishra (Serial No. 9).*—Shri D. R. Mishra was a Cashier in Benares branch. He was appointed on 1st March 1923 and is said to have been demoted to Podder's grade. The relief sought is that he should be promoted to the grade of a cashier from the date of reversion and he should be paid all arrears due to him including difference in increments, allowances, and bonus etc. from the date of reversion.

The case of the Bank is that since his appointment in the Bank he had been working as a Podder but was wrongly shown as a Teller in the list of employees which the branch prepared towards the end of the year 1947 for submission to the Bank's head office for the purpose of implementation of the direction with regard to grading of the Bank's employees contained in the award of Shri R. Gupta. The Bank states that when it was found that he was unable to perform the duties of a Teller he was called upon to retire as he was eligible for pension; but that on his representation he was granted an extension for one year on condition that he should work in the capacity of Podder on the salary which he was getting at that time and that therefore he should not be allowed to take advantage of the mistake

in wrongly showing him as a Teller. There is absolutely nothing to show that he was doing the duties of a Teller prior to Mr. Gupta's award. If therefore he was wrongly included in the list of Tellers when Gupta's award was being implemented he cannot complain that he was demoted especially when it was found that he could not perform the duties of a Teller satisfactorily. The difference in grades between the Tellers and Podders came to be made only as a result of Shri Gupta's award and no such distinction was made as a result of Sen-award and the scales fixed by the Sastry-Tribunal are subject of an appeal before a special bench of the Labour Appellate Tribunal. When the decision of the Appellate Tribunal is given the matter relating to the fixation of salaries of Podders and Tellers will be finally decided and then this employee can get the appropriate relief. I do not think that the case of this employee can be said to be one of demotion. His claim is therefore disallowed.

7. *Biren Banerjee (Serial No. 11).*—Shri B. N. Banerjee was appointed as a clerk in Benares Branch in 1939 and was confirmed in 1941. His complaint is that though he was recommended twice very strongly by the Branch Agent for promotion his case was not considered by the Calcutta head office although some junior clerks were promoted and that therefore his case should be considered and a higher increment should be granted to him. The Bank contends that his case was considered for promotion but that in view of the broad principles laid down for making promotions he was not found fit to be promoted and only those who were very deserving of promotion had been promoted earlier. His case was before the Sen-Tribunal but it was not pressed in view of the Bank's assurance that his case would be considered in due course. The question of promotion of an employee is entirely within the province of the management and unless the Tribunal is satisfied that the discretion of the management has been wrongly exercised or that the Bank acted *mala fide* such a discretion cannot be interfered with. In this case it is stated that the promotion of this employee is being considered and that he would be promoted as and when he is found fit for promotion and there is nothing to show that the Bank has been acting *mala fide* in this matter. The claim of this employee is therefore disallowed.

8. *Indra Prakash Sangal (Serial No. 12).*—Shri I. P. Sangal was a money tester in the Muzaffarnagar branch and he was appointed on 7th February 1944. The nature of dispute is shown in the order of reference as promotion in service, but in the statement of claim the nature of dispute is mentioned 'Degradation'. He is said to have acted as head cashier from 13th June 1945 to 19th June 1945 and acted as Cashier Incharge at Shamli Pay Office from 19th June 1945 for more than 3 months. He is also said to have acted as Cashier Incharge at Deoband Pay Office from 5th July 1945 for 20 days and also as Cashier Incharge of Shamli Pay Office from 17th July 1951 for 15 days. The relief sought is promotion to Cashier's grade. The Bank's case is that Shri Sangal was never degraded and that his being given a chance for officiating as Cashier cannot establish that he is qualified for promotion. The Bank also states that his case is being considered every year and will continue to be considered in the normal course until he is promoted. When his case was before the Sen-Tribunal it was not pressed as the Bank agreed to consider his case. Ex. C filed on behalf of the employee shows that in 1951 there was a case of shortage of Rs. 45 found in the remittance examined by this employee and that he was warned for his negligence. It is stated by the Bank's Solicitor that his case is being considered and that he would be given promotion as soon as he is found fit for it. There is absolutely nothing to discredit the *bona fides* of the Bank. His claim is disallowed with the remark that the Bank would consider his case in usual course and give him the promotion as soon as he is found fit for it.

9. *H. L. Tandon (Serial No. 13).*—Shri Tandon is a stenographer and his complaint is that he is not given the senior clerical grade. He states that he was drawing a sum of Rs. 210 as basic pay in 1952 and that his basic pay would have been Rs. 230 p.m. including the annual increment of Rs. 10 of 1952 if he had been given the senior scale. He also complains that other persons have been given the senior scale and that he has been victimised as he was a striker. The Bank contends that there has been no victimisation in his case and that in fact he was promoted to the senior clerical grade with effect from April 1948. The only complaint of this employee therefore is that he has not been given the senior clerical grade with retrospective effect from the date of Shri R. Gupta's award. It is seen from Ex. A that a representation was made on behalf of the Stenographers on 21st November 1947 for being placed in the senior clerical grade and Ex. B-1 shows

that though the terms of Shri R. Gupta's award did not entitle Stenographers to senior clerical grade, the Bank was prepared to consider the cases of deserving steno-typists to promotion to senior grade. On 26th June 1948 the employee applied to the Bank for reconsideration of his case and as result of this representation he was promoted. His case was also before the Sen-Tribunal but it was not pressed. I do not see what grievance this employee could have against the Bank. His claim is therefore disallowed.

10. *Bishambhar Nath Tewari (Serial No. 16).*—Shri B. N. Tewari is a clerk in the Cash Department of the Kanpur Branch. He was appointed on 1st January 1921 and confirmed on 1st January 1924. The nature of dispute is set out in the Reference as 'Reduction in pay' and in the statement of claim the nature of dispute is said to be stoppage of increment. The relief sought is fixation in the appropriate stage of the present grade taking into calculation his entire length of service and payment of all arrears from the date of stoppage of increment. The Bank states that he was appointed as an apprentice clerk for the purpose of working in the clerical department but was later taken to the Cash Department where his work consisted in dealing with the translations from vernacular, preparation of return, and other similar duties and that in October 1940 he was transferred from Cash Department to the clerical department where he was found to be of very little use and that therefore he had to be put back to the Cash Department on the ground of inefficiency. The Bank also says that having to the long service his salary was restored but that he was informed that he should not expect any increment. He was called upon to submit an application for retirement in 1947 but since he preferred to continue to work he was told that he would have no further annual increment until he retires. It is therefore stated that he cannot expect any further increments.

The correspondence relating to this employee has been marked as Exs. D. to D(7). The case of this employee is a very peculiar one. His work in the Cash Department consists in translating the challans in respect of income tax and sales tax due to Government from Hindi to English, Urdu to English and Muria to English. We had also to translate the drafts which come into the Bank. His evidence shows that he had been doing this work properly and satisfactorily. Besides this work he had also to enter various remittances received from the Government Treasuries. The work of translation goes on till 3 p.m. as he receives 300 to 400 challans every day. It may be that he was not found quite fit to do the duties of a clerk outside the Cash Department but there is no reason why his increment as an employee of the Cash Department should be stopped except by way of punishment. The fact that he did not agree to resign his job when called upon to do so cannot be a ground for stopping his increments. In the present case his increments were stopped in advance and he was told that if he wished to continue he should not expect any further increment. This was certainly an extraordinary procedure to adopt and I do not think the Bank was justified in adopting such a procedure. The employee will therefore be given increments due to him in the usual course and his pay will be fixed on the footing that his increments had never been stopped. He will be allowed to draw all arrears due to him.

11. *Shri Dama Mishra (Serial No. 20).*—Shri S. D. Mishra was a typist in the Mathura Branch. He was appointed on 16th July 1929 and confirmed on 16th July 1932 in Agra Branch. His services were terminated on 20th January 1943. The termination of employment is said to be wrongful and unjustifiable as no reason whatsoever was assigned and no charges were framed and no enquiry was held. The relief sought is that the employee should be reinstated and should be placed in the same position as if the said employment with the Bank was never terminated and he should also be paid such monies as may be found due to him on the above basis. The Bank contends that in the case of this employee the same procedure that was being followed at that time was adopted and that in any event the reason for termination was fully known to Shri Mishra and he gave his explanation which was duly considered by the Bank. It is also stated that in April 1940 the employee submitted his resignation owing to friction with the Branch Accountant, that his resignation was accepted but that subsequently at his earnest request and in view of his past service record he was permitted to withdraw his resignation and that from April 1941 he became an almost continuous source of trouble to various offices to which he was posted by frequently absenting himself from duty and by maintaining a defiant and argumentative attitude in spite of warnings. The Bank has given particulars to show that he used to take sick leave on various occasions and prolonged his

leave even without a medical certificate. As he was persisting in taking leave in this manner he was informed on 12th December 1942 that unless he reported for duty at Mathura Branch immediately his services would be terminated but he informed the head clerk of the branch by telephone that he would resume duty after 17th January 1942. He was therefore suspended from service and called upon to submit a written explanation and since he failed to do so his services were terminated.

The case of this employee is a very old one, his services having been terminated in the year 1943. The Sen-Tribunal before whom his case was urged gave no direction on the ground that the case was one of 1943. It is now more than 11 years since the employee's services were terminated and I do not think that his case should be considered at this stage even on the merits. The correspondence which has been filed on behalf of the Bank as disclosed by Exs. 78 to 84 shows that he was a very undesirable element in the office and was not amenable to discipline. He did not want to work at Mathura to which place he was posted and applied for leave frequently. He tried to get himself transferred to Agra Branch as he could attend to private work if he is posted at that place. He quarrelled with the Accountant and submitted his resignation and subsequently withdrew his resignation. His case was considered by the Bank authorities and it was found that retaining him in service would undermine discipline in office. There has been no victimization in his case and I find that the management was justified in terminating his services. His claim is therefore disallowed.

12. *Shyam Kishore Shukla (Serial No. 21).*—Shri S. K. Shukla was employed as a clerk in Sitapur Branch having been appointed on 5th July 1946. His services were terminated on 15th October 1947. In his case also it is stated that his services were terminated arbitrarily without assigning any reason and without framing any charge or giving him an opportunity to explain himself. The Bank justifies the termination of his appointment on the ground that he extracted two pages out of the transfer scroll, one of the important books of the Branch, at Sitapur Branch. It is stated that on a previous occasion he had destroyed a few non-payment advices of bills and he was severely reprimanded for his conduct. Shri Shukla admitted having removed these pages and the reason given by him for such removal was considered to be thoroughly unsatisfactory. The correspondence that has been filed in this case covered by Exs. L to L(8) and Exs. 100 to 104 shows that in spite of warning for a similar offence he tore two pages out of the scroll book on the ground that a few pages had been left blank. The Bank was therefore justified in holding that he lacked in sense of responsibility and it would not be desirable to retain him in service. His services were rightly terminated. The association which represented his case, has pressed that he should be paid Rs. 178-12-5 which he was entitled, by the award of Shri R. Gupta and which was not paid to him by the Bank. The learned Solicitor for the Bank says that if this amount was due to him he would ask the Bank to pay it. This matter has not been referred to me and I cannot therefore pass any award in respect of the same. His claim for reinstatement fails and is disallowed.

13. *Ram Saran Shukla (Serial No. 22).*—Shri R. S. Shukla was a clerk in the Kanpur Branch having been appointed on 16th August 1942 and confirmed on 16th February 1943. His services were terminated on 13th September 1947. The Union states that the termination of his services was wrongful and unjustifiable as no reason whatsoever was assigned and no charges were framed and no enquiry was held. The Bank contends that in terminating the services of this employee, the normal procedure that was being followed at that time was adopted and that in any event the reasons for termination of his services were fully known to Shri Shukla and he gave his explanation which was duly considered by the Bank. The Bank's case as regards the misconduct of this employee is as follows: He was the cheque book issuing clerk at the Kanpur Branch and issued a cheque book to Messrs. Jain Motor Works the receipt of which was duly acknowledged. A forged cheque for a sum of Rs. 5,000 prepared out of the forms contained in the cheque book was presented on 31st May 1946 and was paid. It was found that two cheque forms were missing from the cheque book issued to Messrs. Jain Motor Works and one of the cheque forms was used for preparation of the forged cheque. It was also found that the hand-writing in the forged cheque closely resembled that of Shri Shukla. Shri Shukla left office early on the day the fraud was perpetrated and absented himself from duty on

the following day. He was suspected and arrested by the police and was subsequently placed under suspension. The Bank waited for nearly 15 months during which period he was paid full salary and allowances and as the case was still pending before the police, the Bank terminated the services of the employee by paying him salary in lieu of notice. On 11th May 1951 the employee was discharged by the Magistrate but the Bank considered that Shri Shukla was responsible for the fraud and therefore terminated his employment. The photo copies of the front and reverse portion of the cheque have been marked as Exs. 49 and 50. The correspondence relating to this employee has been produced and marked as Exs. H to H(3) and Exs. 51 to 77. It has to be remembered that this employee is only the cheque book issuing clerk and that the cheque book was acknowledged by the constituent. The form on which the cheque was written was the second in order in the cheque book and it is difficult to believe that the cheque issuing clerk would have removed numbers 2 and 3 in the cheque book as the loss would be found out very soon after the receipt of the book. If the constituent had been a little careful he could have discovered that two cheque forms were missing even at the time when he received it and would have reported the matter. It is therefore mostly likely that the cheque forms were removed after the book came into the custody of the constituent. It is seen from Ex. 53 which is a report of the Agent of the Kanpur Branch to the Kanpur District Manager that the responsibility for the payment of the cheque was not only that of the Cash Department staff and the Branch Khazanchi but also that of Mr. Allam who was a staff assistant and who passed the cheque. The Bank's scroll writer found that the cheque had scroll and token numbers on it and that when he went to the office in the evening to balance the scroll which is kept by the official of the Bank in the office there was a difference in the figures of the passing officer and the scroll writer and on scrutiny it was found that the item of Rs. 5,000 was not in the scroll. Mr. Allam without going further into the matter entered the item in his scroll since he was shown the cheque. Mr. Allam states that he personally examined the voucher and felt that although he had given a scroll number on the cheque he had not entered it into the scroll book by mistake and that he entered the voucher in his scroll book and inked up his total. He failed to notice that his signature was a forged one. From the report of the Agent it is clear that it was the staff of the Cash Department and the Branch Khazanchi that were considered to be responsible for this fraud. Nevertheless the cheque book issuing clerk has been suspected and condemned because the hand-writing in which the cheque was written appear to closely resemble the writing of this employee. The Magistrate who tried the case came to the conclusion that the prosecution did not prove definitely that the accused took out the cheque from the cheque book before despatching it or that the accused signed the cheque for Khagan Hossain who was dead even by the time of the enquiry. The hand-writing expert seems to have been examined on commission and the Magistrate is of opinion that his evidence does not prove any case against the accused. The hand-writing expert has not been examined before me nor his deposition before the commissioner been produced and exhibited. It is not at all safe to suspect a person merely on the resemblance of hand-writing. The head cashier in his report Ex. 57 states that the forgery must have been done in the office and the cheque was sent to the Cash Department in the usual manner through Bank's peon to avoid suspicion. The Agent in his report Ex. 58 says that this view was incorrect. The Agent states that either the scroll writer or the note keeper deliberately overlooked the absence of the "translation correct stamp" regarding the vernacular writing of Murari Lal on the cheque or both of them were negligent. None of these persons was punished. On the other hand a person who issued the cheque book has been dismissed even before the criminal proceedings terminated. The Bank authorities did not call for an explanation from the employee pointing out the resemblance of the hand-writing found on the cheque and no opportunity was given to the clerk to explain the circumstances that appeared to be against him. The Bank did not hold any independent enquiry apart from the opinion regarding the resemblance of hand-writing. In these circumstances the action of the Bank authorities in having terminated the services of the employee cannot be upheld and the dismissal order cannot be allowed to stand. Shri Shukla will therefore be reinstated in service and all arrears of salary due to him up to date of his reinstatement will be paid to him within a month from the date on which this award becomes operative.

14. *Sardar Kartar Singh Bindra* (Sl. No. 23).—Sardar Kartar Singh Bindra was a head cashier at New Delhi. The date of his appointment is 1st November 1931 and his services were terminated on 3rd January 1949. The case of the Union is that the termination of his employment is wrongful and unjustifiable as the letter purporting to terminate his employment did not assign any rea-

son whatsoever and no charge was ever framed against him or was taken into consideration in coming to a decision about the termination of his employment. It is also stated that even if alleged grounds for termination are considered they are not based on facts and are incorrect, misleading and in any event untenable. The Association claims that the said employee should be reinstated and should be placed in the same position as if his said employment with Bank had never been terminated and he should be paid such monies as are found due to him, on that basis. The Bank in the written statement contends that the termination of employment was not wrongful or unjustifiable and that the normal procedure that was being followed at that time was adopted. It is also stated that in any event the reasons for termination were fully known to Shri Bindra and he gave his explanation which was duly considered by the Bank. The Bank also states that owing to communal disturbances in North West Frontier Province, the Abbotabad Branch of the Bank of which Shri Bindra was the head cashier was closed by a European officer of the Bank on the morning of the 3rd November 1947 and that Shri Bindra along with the Agent of the said branch were evacuated at 1 P.M. on that day. The European officer who arrived at Abbotabad late on Saturday could not carry out a proper check of the cash and he had time only to count the number of sealed bags of whole rupees and small coins in the branch currency chest and small coins depot in the belief that the entire balance would shortly be taken over by the Treasury Officer. The said officer kept in his custody all the keys of the strong room and the branch except the key of the grill door of the strong room which was left with the Muslim clerk of the branch. Before the balance was taken over by the Treasury Officer the said European Officer was recalled to Lahore. In June 1948 the same European Officer was deputed to remove the branch currency chest and small coin depot balance to Lahore Mint and the Reserve Bank of India at Lahore. The boxes containing various coins and notes were received in good condition with seals intact. On examination of the contents however a net deficiency of Rs. 5,860-0-9 was found in regard to the remittance of the quaternary rupee and small coins of which Rs. 5,692 consisted of counterfeit quaternary rupees. Rs. 3,800 of these coins were found in two bags containing Rs. 4,000 in all. There was also a net deficiency of Rs. 1,033 in the remittance of currency notes (shortage Rs. 105, Burma notes Rs. 5 and mutilated notes Rs. 923). The procedure laid down for examination of remittances at the mint was strictly observed and the remittance had not been tampered with in transit or at mint. It is claimed that in these circumstances Shri Bindra was responsible for loss occasioned to the Bank and as Shri Bindra refused to make good the loss to the said Bank, the Bank terminated his services. The correspondence relating to the head cashier has been marked as Exs. 0 to 0(16) and Exs. 125 to 142. It is seen from the correspondence that though Shri Bindra was evacuated from Abbotabad as early as 3rd November 1947 he was called upon to explain about the shortage only on 3rd September 1948 (Ex. 0) and thereafter. In the letter dated 3rd September 1948 the Agent Rawalpindi Branch states that there was a shortage of Rs. 10-7-9 after the arrival of the new Khazanchi in the branch. In the letter dated 17th September 1948 (Ex. 0-2) it is stated that the final examination of the coin remitted at the mint resulted in deficiency of Rs. 5,859-14-6 of which counterfeit quaternary coins found in the remittance were to the value of Rs. 5,692. In his explanations Exs. 0(1) and 0(5) Shri Bindra states that before his departure from Abbotabad the Bank cash balance was duly verified item by item by Mr. John Abel and it was surprising to note that rupees to the value of Rs. 5,692-0-0 were counterfeit and Rs. 165 short, as all the bags in question were positively weighed and checked by him as well as Shri Bhal, the Agent, twice a year while taking over. He also points out that all experienced staff of the Reserve Bank of India, Lahore had migrated to India and new inexperienced staff had been recruited and therefore it was quite possible that the remittances had not been properly shroffed. It is admitted that there were communal riots even from March 1947 and that this head cashier stayed at Abbotabad till 3rd November 1947 risking his life. He handed over charge to Mr. John Abel and he left the place under escort. 27 Poddars slips alleged to have been taken out from the bags in question were sent to the head cashier and he was able to identify only 6 of them and initials on the remaining slips did not appear to be familiar with him. The money in the currency chest which passed into the hands of Mr. John Abel remained at Abbotabad for over six months and it is only thereafter that the money was removed to Lahore. The work of handing over a part of the currency chest to the Treasury Officer, taking of the remainder and sending the same to Lahore and examination there was all done without the knowledge and in the absence of Shri Bindra. The statement of Shri Bhal supports the case of Shri Bindra that verification of the currency chest at the time of taking over was carried out in accordance with the instructions contained in paragraph 8, chapter 8 of the Bank's Book of Instruction and that all

subsequent transactions were also confined to the above instructions. If the instructions were properly carried out no shortage in weight could have existed so long as Shri Bhal and Shri Bindra were at Abbotabad. It is also seen that when Abbotabad branch was closed in November 1947 Mr. Abel counted the number of bags in whole rupees and small coins in the branch currency chest and small coin depot. Mr. Abel in his explanation states as follows:

"Rightly or wrongly I decided that in view of the unusual circumstances under which I find myself incharge of the balance jointly with B. Ghulam Ghaus, the less the cash was touched by us pending the check the better having in mind that if there were any discrepancies this would then come to light in the presence not only of ourselves but of the Treasury Officer and his treasurer when these two officers actually counted the coins."

It is also seen that the remittance in question was sent to Lahore by rail and was accompanied by two podders and a police escort but contrary to the rules, the podders and the police escorts travelled in the same wagon as the remittance. There was also a complaint that high denomination notes of Rs. 1,000 were found in the bags which ought not to have been accepted. Shri Bindra does not appear to have been asked to explain about this matter. Between the closure of the branch in November 1947 and the actual counting of the money there was a long gap of time during which period several things took place behind the back of Shri Bindra and without his knowledge. It is not known how in those circumstances the responsibility could be laid at the door of Shri Bindra. Further the several cashiers who were working under Bindra seem to have been permitted to resign from the services of the Bank without the knowledge or consent of the head cashier and there was absolutely no possibility of the head cashier reimbursing himself the monies which he was called upon to pay the Bank. Hence it was that Shri Bindra did not accept the responsibility and refused to pay the money. If he had paid the money found deficient Shri Bindra's services would not have been terminated. No reason whatsoever was assigned in the letter terminating the service of Shri Bindra. The order terminating the services of Shri Bindra cannot be justified. He will therefore be reinstated in service and he will be paid his pay and allowances from the date of termination of service till the date of his reinstatement. He will be reinstated within a month from the date on which the award becomes operative.

15. *Ramji Das Gupta* (Sl. No. 24).—Shri R. D. Gupta was a clerk in the Alwar Branch and his services were terminated on 4th January 1949. The case of the Association is that the termination of employment of this workman is wrongful and unjustifiable as no reason whatsoever was assigned in the letter terminating his employment and as no charges were framed or considered in coming to a decision. The contention of the Bank is that the termination of employment was not arbitrary and the normal procedure that used to be followed until the award of the Sen-Tribunal came into force was adopted and that in any event the reason for termination of his services was fully known to Shri Gupta and he gave his explanation which was duly considered by the Bank. The Bank's case is that on the 10th August 1948 the Branch Agent of Alwar Branch where Shri Gupta was posted as despatch clerk discovered while checking entries in the postage book that several covers addressed to certain branches and entered into postage book as having been stamped were not traceable and that certain registered covers which were addressed to the said branches earlier in the day had already been despatched. It is also stated that the Branch Head Cashier and the head clerk, who were sent to the local post office to verify the contents of the said registered covers found that the untraceable covers were enclosed unstamped with the registered covers. The Branch Agent also found that the cover addressed to Kanpur Branch was entered twice in the despatch book and also the postage thereon was charged twice. An explanation appears to have been submitted in regard to these entries but the same was not accepted as upon the scrutiny of the branch postage book for six months prior to 10th August 1948 it was found that several other instances of more than one cover having been sent to the same office on the same day bearing the same number had been entered twice in the postage book and also correspondence entered as having been despatched by registered cover to a branch had also been entered in the postage book maintained for ordinary letters. The Bank therefore states that as Shri Gupta had been systematically making petty defalcations with the money received by him on account of postage stamp, he was considered thoroughly unreliable and his services were rightly terminated. This employee has been examined as WW-2 and the correspondence relating to him has been

marked as Exs. E to E(15). A copy of the Memorandum dated 11th August 1948 addressed to Shri Ramji Das Gupta discloses the following discrepancies:

Letter No.	Addressee	Place	Postage	Agent's Remarks
D—1249/50	I.b.I.	Ahmedabad	0—1—6	No such cover
S.C.P.A.	„	Indor	0—1—6	—Do—
D.D.P.A.	„	Mawana	0—1—6	—Do—
D.P.	D.M.	Kanpur	0—2—6	Entered twice. Had these letters been posted separately stamps of 0—1—6 on each would have been sufficient.
S.L. 29/90	„	Kanpur	0—2—6	

From this it is seen that while three separate letters are shown to have been addressed to Ahmedabad, Indore and Mawana incurring postage stamp of the value of Re. 0-1-6 for each case no such covers were found and that in regard to a letter addressed to Kanpur two entries were made of Re. 0-2-6 each. The Agent's remarks show that had these letters been posted separately stamps of Re. 0-1-6 would have been sufficient. The explanation of the employee has been marked as Ex. E(5) and in this it is stated that the employee prepared the covers of ordinary dak and entered in the register with the envelopes and that as subsequently he found three registered covers he put the registered dak contained into them and despatched them but forgot to delete the entries from the postage book. It is also stated that in the evening after postage book was closed he received an envelope containing special letter and intending to send it separately entered the cost of postage stamp to the value of Re. 0-2-6 as on next date and took out the stamp for affixation but having remembered that there was already another cover he put the contents in that letter but failed to score out the entry in the register. The same explanation is spoken to by him in his evidence but it is clear that the explanation is given only with a view to escape liability. Having sent the ordinary letters in the registered letters he ought to have scored out the entry in the ordinary letter register at once. Similarly in the case of the special letter there is no reason why after preparing a separate cover and making an entry as on the next date the employee should have rushed to the head clerk's table and inserted the letter in a previous cover. If he was honest he should have scored out the entry he made. His attempt to show that there was no defalcation has been a failure. He states that he keeps a rough note book for the purpose of tallying the stamp spent and the telegraph expenses. He could not remember when the sum of Rs. 3 mentioned in item 7 in his letter of explanation, dated 13th June, 1948, was paid to the messenger. If these were only isolated items probably the guilt of the employee may be condoned but an examination of the postage stamp book for a period of six months prior to the 10th August, 1948 disclosed that the employee was in the habit of posting two letters in the same cover and showing two items of expenditure in the register. An explanation was called for from him in respect of this matter and Ex. E(1) shows that he was unable to explain the discrepancies. He states that sufficiently long time had elapsed and hence he was unable to recollect the circumstances under which the irregularities occurred. There can therefore be no doubt that full opportunity was given to this employee to explain the circumstances that appeared to be against him and he was unable to offer any explanation. There can be no doubt that this employee was a thoroughly unreliable man and was making petty defalcations during the course of a few months. Such a person should not be retained in office and the Bank was therefore justified in terminating his employment. His claim is therefore disallowed.

16. C. D. Saraf (Sl. No. 25).—Shri C. D. Saraf is a clerk incharge at Kapurthala. He was appointed on 1st June, 1927 and confirmed on 1st June, 1930. Nature of dispute is said to be payment of compensation. This employee has filed a claim detailing his grievances and stating that adequate compensation should be paid to him by the Bank. He was a clerk incharge of Mianwali Treasury Pay Office from 1st January, 1945 till it was closed in March, 1947, due to communal disturbances. He stuck to his post all along while the members of his family who were later on killed in the disturbances was living in his native place Chiniot. He made representations to the District Manager, Kanpur, mentioning all his misfortunes and requesting that he might be sufficiently

compensated. His grievance is that no compensation has been given to him. The Bank's case is that the said misfortunes even if true cannot justify his claim for compensation and he could not be given promotion to a supervisory post if he was not found qualified merely because he had to undergo certain misfortunes. The Bank states that his case for promotion was duly considered and will continue to be considered in future. Ex. J to Ex. J(3) which are filed on his behalf show that the employee was obliged to remain in Mianwali though his family was living at Chiniot and that his claim for promotion was promised to be considered in due course. It may be that on account of communal disturbances a number of members of his family lost their lives when they were on their way from Chiniot but the Bank cannot be held responsible for these misfortunes just because he could not be relieved from Mianwali earlier. So far as promotion is concerned the Bank has promised to give him promotion as soon as he was found fit for it. The employee seems to be more interested in getting money compensation on account of the misfortunes he had. I do not see how this can form the subject matter of an industrial dispute. His case is recommended for sympathetic consideration by the Bank but no relief can be granted in regard to the claim. His claim is therefore disallowed.

17. *Prokash Chandra Chopra* (Sl. No. 26).—Shri P. C. Chopra was a clerk in the Abbotabad branch. He was appointed on 11th December, 1941 and confirmed on 10th April, 1943. His services were terminated on 17th September, 1947. The Association states that the termination of his employment is wrongful and unjustifiable as no reason was assigned and no charges were framed or considered. The Bank's case is as follows: Shri Chopra took leave on March, 1947 on the plea of his mother's illness and went on extending the said leave on the same plea. On enquiry it was found to be false and he was instructed to resume duty at once. He was also informed that if he failed to do so he will be considered as having voluntarily terminated his employment. He informed the Bank that he was not prepared to resume duty at the Abbotabad branch as it was in Pakistan area and applied for transfer to the Indian Dominion. The Bank refused to grant his request as it would be inundated with similar applications from other employees in case his application was accepted. The Bank therefore terminated the employment of Shri Chopra. Correspondence relating to this employee has been marked as Ex. N to N(39) and Exs. 122 to 124. Abbotabad is in Pakistan area and there were communal disturbances at that place from March, 1947 onwards. He was applying for leave on the ground of mother's illness. When asked to proceed to Abbotabad branch he expressed his difficulties and applied for a transfer to some other branch. He stated that he was not prepared to go to Pakistan area where hundreds and thousands of brethren of his had been slaughtered as dogs and deprived of their property by means of violence. In spite of this the employee was asked to go to Abbotabad branch and if he failed to do so he was told that he would be treated as having voluntarily terminated his job. The Branch at Abbotabad had to be closed on account of communal disturbances in November, 1947. In those disturbed conditions it was not safe for Shri Chopra to go to Abbotabad and his refusal to go and join at that place cannot be considered to be such insubordination or disregard of duties as to merit dismissal. The authority which insisted upon Shri Chopra joining Abbotabad was either unaware of the gravity of the situation or was callous as to the risk involved in compelling an employee to join in the disturbed area. In these circumstances the termination of services of Shri Chopra cannot be said to be justified. He will therefore be reinstated in service but in view of the long lapse of time he will be paid pay and dearness allowance for a period of one year prior to the date of reinstatement as compensation. It will be paid to him within 15 days after the award becomes operative.

An award is therefore passed in accordance with the decision arrived at, in each of the above mentioned cases.

(Sd.) C. BHAKTAVATSALU, *Chairman,*
Central Government Industrial Tribunal, Calcutta.

CALCUTTA;
The 31st March, 1954.

[No. LR.100(89).]

P. S. EASWARAN, *Under Secy.*

New Delhi, the 9th April 1954

S.R.O. 1258.—In pursuance of the provisions of sub-paragraph (1) of paragraph 19 of the Employees' Provident Funds Scheme, 1952, made under section 5 of the Employees' Provident Funds Act, 1952 (XIX of 1952), the Central Government hereby appoints Shri S. Neelakantam as the Commissioner for the Employees' Provident Fund, with effect from the 1st April 1954, for the territories to which the said Act extends, *vice* Shri N. M. Patnaik, I.A.S.

[No. PF-516(175).]

TEJA SINGH SAHNI, Under Secy.

New Delhi, the 9th April 1954

S.R.O. 1259.—In exercise of the powers conferred by sub-clauses (1), (3) and (4) of clause 4 of the Bombay Dock Workers (Regulation of Employment) Scheme, 1951, and in supersession of the notification of the Government of India in the Ministry of Labour No. S.R.O. 537, dated the 9th April 1951, the Central Government hereby constitutes the Bombay Dock Labour Board consisting of the following members, namely:—

Members representing the Central Government

- (1) Shri L. T. Gholap, I.C.S., Chairman, Port Trust, Bombay.
- (2) Shri E. J. Francis, Regional Director of Resettlement and Employment, Bombay.
- (3) Shri M. T. Balani, Regional Labour Commissioner (Central), Bombay.
- (4) Shri V. V. Joshi, Government Labour Officer, Bombay.

Members representing the dock workers

- | | | |
|---------------------------|---|--|
| (1) Shri P. D'Mello, | } | Representatives of the Bombay Dock Workers' Union. |
| (2) Shri M. G. Kotwal, | | |
| (3) Shri P. W. Khandekar, | | |
- (4) Shri H. N. Trivedi, Representative of the Bombay Stevedores' and Dock Labourers' Union.

Members representing the employers of dock workers and shipping companies

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|------------------------|---|--|
| (1) Shri K. A. Dubash, | } | Representatives of the Bombay Stevedores' Association. |
| (2) Shri S. C. Sheth, | | |
- (3) Shri N. P. Mehta, Representative of the Indian National Steamship Owners' Association, Bombay.
- (4) Shri N. H. G. Grant, Representative of the Karmahom Committee.

2. The Central Government hereby nominates Shri L. T. Gholap, I.C.S., Chairman, Port Trust, Bombay, as the Chairman of the said Board.

3. This notification shall come into force on or from the 9th April, 1954.

[No. Fac.73(69).]

P. M. SUNDARAM, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CUSTOMS

New Delhi, the 14th April 1954.

S.R.O. 1260.—The following draft of certain rules which the Central Government proposes to make in exercise of the powers conferred by section 43B of the Sea Customs Act, 1878 (VIII of 1878), is published, as required by sub-section (3) of section 43B of the said Act, for the information of persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration after one month from the date of the publication of this notification in the official Gazette.

Any objection or suggestion which may be received by the undersigned from any person with respect to the said draft before the date specified will be considered by the Central Government.

DRAFT RULES

1. **Short title.**—These rules may be called the Customs Duties Drawback (Embroidered Goods) Rules, 1954.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

- (a) 'the act' means the Sea Customs Act, 1878 (VIII of 1878);
- (b) 'embroidered goods' means imported materials on which designs, marks, letters and like impressions have been embroidered in India with gold, silver, straw silk, cotton and other similar thread;
- (c) 'imported materials' means shoe vamps, shoe uppers, scarfs, vanity bag pieces, ready-made apparel, and such other like materials as the Chief Customs Authority may approve, imported into this country on payment of customs duty;
- (d) 'registered manufacturer' mean a manufacturer or producer of embroidered goods, who has been registered under rule 5 for the purpose of these rules; and
- (e) 'section' means a section of the Act.

3. **Goods in respect of which drawback may be allowed.**—Subject to the provisions of the Act and these rules, a drawback shall be allowed in the case of embroidered goods, manufactured or produced in, and exported from, India, in respect of all imported materials used in the manufacture or production of such goods.

4. **Period for which drawback admissible.**—A drawback under these rules shall be admissible for the period during which a notification in respect of the goods is in force under sub-section (1) of section 43B.

5. **Registration of manufacturer.**—(1) The drawback permissible under these rules shall apply only in respect of such goods as have been manufactured or produced by a person who has been registered under the rule.

(2) An application for registration shall be made by a manufacturer or producer of goods to the Chief Customs Authority which may nominate any Chief Customs Officer, who shall hereinafter be referred to as the 'Nominated Chief Customs Officer' to act on its behalf in this respect.

(3) Such application shall describe the varieties, brands, if any, and other specifications of the goods in respect of which registration is desired and shall in respect of each such variety or brand, furnish the description and quantity of different materials used in the manufacture or production of the goods.

(4) The Chief Customs Authority or the Nominated Chief Customs Officer may register the applicant as a registered manufacturer for the purposes of the rules.

6. **Manner of allowing drawback.**—A drawback shall be allowed on the export of the goods subject to the following conditions, namely:—

(a) The shipper of the goods shall make a declaration on the relative shipping bill that a claim for drawback under section 43B is being made.

(b) The shipper shall, in the shipping bill, furnish, in addition to information required under Section 29, such additional information as may, in the opinion of the Customs Collector be necessary for the purpose of relating the goods to the

imported materials and of verifying the claim for drawback, and in particular the Customs Collector may require such additional information in respect of the following matters, namely:—

- (i) the description of the goods,
 - (ii) the name of the manufacturer, registration number and the authority or officer with whom registered,
 - (iii) the particulars of any brand or trade mark attached to the goods,
 - (iv) weight, length, width, value and like particulars in respect of the goods.
 - (v) the cash or deposit number and the date of Customs bill of entry under which the materials from which the goods under export have been manufactured or produced, have been imported on payment of Customs duty.
- (c) It shall be established to the satisfaction of the Customs Collector, by reference to any seal, stamp, mark or other such identification approved by the Customs Collector, impressed, affixed or attached in such manner as the Customs Collector may permit, on the imported materials at the time of import, that the goods entered for export have been manufactured or produced from duty-paid imported materials. All expenses incidental to the stamping shall be borne by the importers.

7. Payment of drawback.—Where the Customs Collector is satisfied that a claim for the drawback is established under these rules, such drawback shall be paid at the rate indicated in rule 8.

8. Rate of drawback.—Subject to the provisions of these rules, a drawback shall be allowed at a rate equal to the amount of duty established to the satisfaction of the Customs Collector to have been paid on the imported materials used in the manufacture or production of the goods exported.

9. Time limit for export.—No drawback shall be admissible under these rules on the export of embroidered goods in respect of imported materials used in the manufacture or production thereof, unless the export be made within two years from the date of importation of such materials:

Provided that the Chief Customs Authority may, on sufficient cause being shown, extend the terms to a period not exceeding three years.

10. Powers of Customs Collector.—For the purpose of enforcing these rules the Chief Customs Officer or the Customs Collector, may—

- (a) require a registered manufacturer to produce any books of accounts or other documents of whatever nature relating to the use of the imported materials in the manufacture or production of the embroidered goods;
- (b) require the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary.

11. Access to manufactory.—A registered manufacturer of the embroidered goods in respect of which a drawback is claimed shall give access to every part of his manufactory to an officer of the Central Government specially authorised in this behalf by the Chief Customs Officer or the Chief Customs Authority to enable the officer so authorised to inspect the processes of manufacture or production and to verify by actual check or otherwise the statements made in support of the claim for such drawback

[No. 42.]

A. K. MUKARJI, Dy. Secy.

